Reg. No. M. 1175

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

Vol. 85] BANGALORE, THURSDAY, FEB. 16, 1950 [No. 7

PART IV

Section 1-A

BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L. D. 968—Legis. 30-49-4, dated Bangalore, the 18th January 1949.

Ordered that the accompanying Mines Bill, 1949 (60 of 1949), Administration of Evacuee Property Bill, 1949, (63 of 1949), and the Central Reserve Police Force Bill, 1949 (65 of 1949) published in the Gazette of India, dated December 17, 1949, be republished in the *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,

Legal Remembrancer and Secretary to Government, Law Department.

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

GOVERNMENT OF INDIA.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE).

The following Bill was introduced in the Constituent Assembly of India, (Legislative) on the 8th December, 1949:—

A. BILL* No. 60 OF 1949.

A Bill to amend and consolidate the law relating to the regulation of labour and safety in mines.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation of labour and safety in mines;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Mines Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on the first day of April, 1951.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adolescent" means a person who has completed his fifteenth year but has not completed his eighteenth year;

* The Governor-General has, in pursuance of sub-section (3) of section 67 of the Government of India Act, 1935, recommended to the Constituent Assembly of India (Legislative) the consideration of the Bill.

(*b*) "adult" means a person who has completed his eighteenth year;

(*c*) "agent", when used in relation to a mine, means any person, whether appointed as such or not, who acts as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act;

(*d*) "Chief Inspector" means the Chief Inspector of Mines appointed under this Act;

(*e*) "child" means a person who has not completed his fifteenth year;

(*f*) "day" means a period of twenty-four hours beginning at midnight;

(*g*) "District Magistrate" means, in a Presidency-town, the person appointed by the Central Government to perform the duties of a District Magistrate under this Act in that town;

(*h*) a person is said to be "employed" in a mine who works under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or about the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations;

(*i*) "Inspector" means an Inspector of Mines appointed under this Act, and includes a District Magistrate when exercising any power or performing any duty of an Inspector which he is empowered by this Act to exercise or perform;

(*j*) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—

(*i*) every shaft in the course of being sunk;

(*ii*) every level and inclined plane in the course of being driven;

(*iii*) all shafts, levels, planes, machinery, works, tramways and sidings, whether above or below ground, in or adjacent to or belonging to the mine;

(*iv*) any workshop situated within the precincts of the mine and under the same management and used solely for purposes connected with that mine or a number of mines under the same management;

(*v*) any power station for supplying electricity solely for the purpose of working the mine, or any group of mines; and

(*vi*) unless exempted by the Central Government by notification in the official Gazette, any premises or part thereof on which any process ancillary to the getting, dressing or preparation for sale of minerals or of coke is being carried on;

(*k*) "office of the mine" means an office at the surface of the mine concerned;

(*l*) "owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver; but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;

(*m*) "prescribed" means prescribed by rules, regulations or bye-laws, as the case may be;

(*n*) "qualified medical practitioner" means a person holding a qualification granted by an authority specified in the Schedule to the Indian Medical Degress Act, 1916, (VII of 1916), or in the Schedule to the Indian Medical Council Act, 1933 (XXVII of 1933);

(*o*) "regulations", "rules" and "bye-laws" mean respectively regulations, rules and bye-laws made under this Act;

(*p*) where work of the same kind is carried out by two or more sets of persons working during different periods of the day each of such sets is called a "relay";

(*q*) "**serious bodily injury**" **means any injury which involves**, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb, or the permanent loss of or injury to the sight or hearing, or the fracture of any limb or the enforced absence of the injured person from work for a period exceeding twenty days;

(*r*) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

3. Rule of construction in application of Act to Acceding States.—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to the Provinces of India or to a Province of India shall be construed as references to that Acceding State;

(*b*) references to any Provincial Government shall be construed as references to the Government of that Acceding State;

(*c*) references to the official Gazette in relation to a Province shall be construed as references to the official Gazette or other corresponding official publication of that Acceding State and

(*d*) references to any enactment in force in the Provinces of India but not in force in that Acceding State shall be construed as references to the corresponding law, if any, in force in that Acceding State.

4. References to time of day.—In this Act, references to time of day are references to Indian standard time, being five and half hours ahead of Greenwich mean time:

Provided that, for any area in which Indian standard time is not ordinarily observed, the Central Government may make rules—

(*a*) specifying the area;

(*b*) defining the local mean time ordinarily observed therein; and

(*c*) permitting such time to be observed in all or any of the mines situated in the area.

CHAPTER II.

INSPECTORS AND CERTIFYING SURGEONS.

5. Chief Inspector and Inspectors.—(*1*) The Central Government may, by notification in the official Gazette, appoint a duly qualified person to be Chief Inspector of Mines for all the territories to which this Act extends and duly qualified persons to be Inspectors of Mines subordinate to the Chief Inspector.

(*2*) No person shall be appointed to be Chief Inspector or an Inspector or having been appointed shall continue to hold such office who

is or becomes directly or indirectly interested in any mine or mining rights in India.

(*3*) The District Magistrate may exercise the powers and perform the duties of an Inspector subject to the general or special orders of the Central Government:

Provided that nothing in this sub-section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 22 or section 61.

(4) The Chief Inspector and all Inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

6. Functions of Inspectors.—(*1*) The Chief Inspector may, by order in writing, prohibit or restrict the exercise by any Inspector named, or any class of Inspectors specified, in the order of any power conferred on Inspectors by this Act, and shall subject as aforesaid, declare the local area or areas within which, or the group or class of mines with respect to which Inspectors shall exercise their respective powers.

(*2*) The Inspectors shall give information to owners, agents and managers of mines, situate within the local area or areas or belonging to the group or class of mines, in respect of which he exercises powers under sub-section (1) as to all regulations and rules which concern them respectively and as to the places where copies of such regulations and rules may be obtained.

7. Powers of Inspectors of Mines.—The Chief Inspector and any Inspector may—

(*a*) make such examination and inquiry as he things fit in order to ascertain whether the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder are observed in the case of any mine;

(*b*) with such assistants, if any, as he thinks fit, enter, inspect and examine any mine or any part thereof at any time by day or night;

(*c*) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the bye-laws for the time being in force relating to the mine, and all matters and things connected with or relating to the health, safety and welfare of the person employed in the mine, and take whether on the

precincts of the mine or elsewhere, statements of any person which he may consider necessary for carrying out the purposes of this Act;

(*d*) exercise such other powers as may be prescribed by regulations made by the Central Government in this behalf:

Provided that no person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

8. Powers of special officer to enter, measure, etc.—Any person in the service of the Government duly authorised in this behalf by a special order in writing of the Chief Inspector or of an Inspector may for the purpose of surveying, levelling or measuring any mine, after giving not less than three days' notice to the manager of such mine, enter the mine and may survey, level or measure the mine or any part thereof at any time by day or night:

Provided that, where in the opinion of the Chief Inspector or of an Inspector an emergency exists, he may, by order in writing, authorise any such person to enter the mine for any of the aforesaid purposes without giving any such notice.

9. Facilities to be afforded to Inspectors.—Every owner, agent and manager of a mine shall afford the Chief Inspector and every Inspector and every person authorised under section 8 all reasonable facilities for making any entry, inspection, survey, measurement, examination or inquiry under this Act.

10. Secrecy of information obtained.—(*1*) All copies of and extracts from registers or other records appertaining to any mine and all other information acquired by the Chief Inspector or an Inspector or by any one assisting him, in the course of the inspection of any mine under this Act or acquired by any person authorised under section 8 in the exercise of his duties thereunder, shall be regarded as confidential and shall not be disclosed to any person or authority unless the Chief Inspector or the Inspector considers disclosure necessary to ensure the health, safety or welfare of any person employed in the mine or in any other mine adjacent thereto.

(*2*) Nothing in sub-section (*1*) shall apply to the disclosure of any such information (if so required) to,—

(*a*) any Court;

(*b*) a Mining Board, Committee, or Court of Inquiry constituted or appointed under section 12, section 13 or section 24 as the case may be;

(*c*) an official superior or the owner, agent or manager of the mine concerned;

(*d*) a Commissioner for workmen's compensation appointed under the Workmen's Compensation Act, 1923 (VIII of 1923);

(*e*) the Director, Indian Bureau of Mines.

(*3*) If the Chief Inspector, or an Inspector or any other person referred to in sub-section (*1*) discloses, contrary to the provisions of this section, any such information as aforesaid without the consent of the Central Government, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(*4*) No Court shall proceed to the trial of any offence under this section except with the previous sanction of the Central Government.

11, Certifying surgeons.—(*1*) The Central Government may appoint qualified medical practioners to be certifying surgeons for the purposes of this Act within such local limits or for such mine or class or description of mines as it may assign to them respectively.

(*2*) Subject to such conditions as the Central Government may think fit to impose, a certifying surgeon may, with the approval of the Central Government, authorise any qualified medical practitioner to exercise all or any of his powers under this Act for such period as the certifying surgeon may specify, and references to a certifying surgeon shall be deemed to include references to any qualified medical practitioner when so authorised.

(*3*) No person shall be appointed to be or authorised to exercise the powers of a certifying surgeon, or, having been so appointed or authorised, continue to exercise such powers, who is or becomes the owner, agent or manager of a mine, or is or becomes directly or indirectly interested therein, or in any process or business carried on therein or in any patent or machinery connected therewith, or is otherwise in the employment of the mine.

(*4*) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(*a*) the examination and certification of adolescents under this Act;

(*b*) the examination of persons egaged in a mine in such dangerous occupations or processes as may be prescribed;

(*c*) the exercise of such medical supervision as may be prescribed for any mine or class or description of mines where—

(i) cases of illness have occurred which it is reasonable to believe are due to the nature of any process carried on or other conditions of work prevailing in the mine;

(ii) adolescents are or are to be employed in any work which is likely to cause injury to their health.

CHAPTER III.

MINING BOARDS AND COMMITTEES.

12. Mining Boards.—(*1*) The Central Government may constitute for any part of the territories to which this Act extends, or for any group or class of mines, a Mining Board consisting of—

(*a*) a person in the service of the Government, not being the Chief Inspector or an Inspector, nominated by the Central Government to act as chairman;

(*b*) the Chief Inspector or an Inspector nominated by the Central Government;

(*c*) a person, not, being the Chief Inspector or an Inspector, nominated by the Central Government;

(*d*) two persons nominated by owners of mines or their representatives in such manner as may be prescribed;

(*e*) two persons to represent the interest of miners, who shall be nominated in accordance with the following provisions, namely,—

(i) if there are one or more registered trade unions having in the aggregate as members not less than one-quarter of the miners, the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed;

(ii) if sub-clause (i) is not applicable and there are one or more registered trade unions having in the aggregate as members not less than one thousand miners, one of the said persons shall be nominated by such trade union or trade unions in such manner as may be prescribed and the other by the Central Government;

(iii) if neither sub-clause (*i*) nor sub-clause (*ii*) is applicable, the said persons shall be nominated by the Central Government.

Explanation.—In this clause 'miner' means a person employed, otherwise than in a position of supervision or management, in any of the mines for which the Mining Board is constituted.

(2) The chairman shall appoint a person to act as secretary to the Board.

(3) The Central Government may give directions as to the payment of travelling expenses incurred by the secretary or any member of any such Mining Board in the performance of his duty as such secretary or member.

13. Committees.—(1) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(*a*) a chairman nominated by the Central Government or by such officer or authority as the Central Government may authorise in this behalf;

(*b*) a person nominated by the chairman and qualified by experience to dispose of the question referred to the Committee; and

(*c*) two persons to represent the interests of the persons employed in the mine of whom one shall be nominated by the owner, agent or manager of the mine concerned, and the other shall be nominated by the Central Government in consultation with such organisations of persons employed in the mine as may be recognised for the purpose by that Government.

(2) No Inspector or person employed in or in the management of any mine concerned shall serve as chairman or member of a Committee appointed under this section.

(3) Where an owner, agent or manager fails to exercise his power of nomination under clause (*c*) of sub-section (*1*), the Committee may not withstanding such failure, proceed to inquire into and dispose of the matter referred to it.

(4) The Committee shall hear and record such information as the Chief Inspector or the Inspector, or the owner, agent or manager of the mine concerned, may place before it, and shall intimate its decision to the Chief Inspector or the Inspector and to the owner, agent or manager of the mine, and shall report its decision to the Central Government.

(5) On receiving such report the Central Government shall pass orders in conformity therewith unless the Chief Inspector or the owner, agent or manager of the mine has lodged an objection to the decision of the Committee, in which case the Central Government

may proceed to review such decision and to pass such orders in the matter as it may think fit:

Provided that if an objection is lodged by the Chief Inspector, notice of the same shall be given to the owner, agent or manager of the mine before any orders are passed thereon by the Central Government.

(*6*) The Central Government may give directions as to the remuneration, if any, to be paid to the members of the Committee or any of them, and as to the payment of expenses of the inquiry including such remuneration.

14. Powers of Mining Boards.—(*1*) Any Mining Board constituted under section 12 and any Committee constituted under section 13 may exercise such of the powers of an Inspector under this Act as it thinks necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to it.

(*2*) Every Mining Board constituted under section 12 and every Committee appointed under seation 13 shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by any such Mining Board or Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

15. Recovery of Expenses.—The Central Government may direct that the expenses of any inquiry conducted by a Mining Board constituted under section 12 or by a Committee appointed under section 13 shall be borne in whole or in part by the owner or agent of the mine concerned, and the amount so directed to be paid may, on application by the Chief Inspector or an Inspector to a Magistrate having jurisdiction at the place where the mine is situated or where such owner or agent is for the time being resident, be recovered by the distress and sale of any movable property within the limits of the Magistrate's jurisdiction belonging to such owner or agent.

CHAPTER IV.

MINING OPERATIONS AND MANAGEMENT OF MINES.

16. Notice to be given of mining operations.—(*1*) The owner, agent or manager of a mine shall, before the commencement of any mining operation, give to the Chief Inspector, the Director, Indian Bureau

of Mines and the District Magistrate of the district in which the mine is situate, notice in writing in such form and containing such particulars relating to the mine as may be prescribed.

(2) Any notice given under sub-section (1) shall be so given as to reach the persons concerned at least one month before the commencement of any mining operation.

17. Managers.—Save as may be otherwise prescribed every mine shall be under one manager who shall have the prescribed qualifications and shall be responsible for the control, management and direction of the mine, and the owner or agent of every mine shall appoint himself or some other person, having such qualifications, to be such manager.

18. Duties and responsibilities of owners, agents and managers.—(1) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and of the regulations, rules and bye-laws and of any orders made thereunder.

(2) In the event of any contravention of any such provisions by any person whosoever, the owner, agent and manager of the mine shall each be deemed also to be guilty of such contravention unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing those provisions, to prevent such contravention:

Provided that the owner or agent shall not be so deemed if he proves—

(a) that he was not in the habit of taking, and did not in respect of the matter in question take, any part in the management of the mine; and

(b) that he had made all the financial and other provisions necessary to enable the manager to carry out his duties; and

(c) that the offence was committed without his knowledge, consent or connivance.

(3) Save as hereinbefore provided, it shall not be a defence in any proceedings brought against an owner or agent of a mine under this section that a manager of the mine has been appointed in accordance with the provisions of this Act.

CHAPTER V.

PROVISIONS AS TO HEALTH AND SAFETY.

19. Drinking Water.—(*1*) In every mine, both above and below ground, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all persons employed therein a sufficient supply of wholesome drinking water.

(*2*) All such points shall be legibly marked 'DRINKING WATER' in a language understood by a majority of the persons employed in the mine and no such point shall be situated within twenty feet of any washing place, urinal or latrine, unless a shorter distance is approved in writing by the Chief Inspector.

(*3*) In every mine wherein more than two hundred and fifty persons are ordinarily employed provision shall be made for cooling drinking water during hot weather by effective means and for distribution thereof.

(*4*) In respect of all mines or any class or description of mines, the Central Government may make rules for securing compliance with the provisions of sub-sections (*1*), (*2*) and (*3*) and for the examination by prescribed authorities of the supply and distribution of drinking water.

20. Conservancy.—(*1*) There shall be provided, separately for males and females in every mine, sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.

(*2*) All latrines and urinals provided under sub-section (*1*) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.

(*3*) The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females ordinarily employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations in this regard of persons employed in the mine) as it may consider necessary in the interests of the health of the persons so employed.

21. Medical appliances.—(*1*) In every mine, both above and below ground, there shall be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes

or cupboards shall not be less than one for every one hundred and fifty persons ordinarily employed in the mine.

(2) Nothing except the prescribed contents shall be kept in the boxes and cupboards referred to in sub-section (1) and all such boxes and cupboards shall be kept in the charge of any person employed in the mine who is trained in such first-aid treatment as may be prescribed and who shall always be available during the working hours of the mine.

(3) In every mine wherein more than five hundred persons are employed, there shall be provided and maintained an ambulance room of the prescribed size containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed.

22. Powers of Inspectors when causes of danger not expressly provided against exist or when employment of persons is dangerous.—(1) If in respect of any matter for which no express provision is made in this Act, or in the regulations, rules or bye-laws or in any orders made thereunder it appears to the Chief Inspector or the Inspector that any mine, or any part thereof or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective and require the same to be remedied within such time as he may specify in the notice.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, by order in writing addressed to the owner, agent or manager of a mine, prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire, and the provisions of sub-sections (4), (5), (6) and (7), shall apply to an order made under this sub-section as they apply to an order made under sub-section (3).

(3) If the Chief Inspector or an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector is of opinion that there is urgent and immediate danger to the life or safety

of any person employed in any mine or part thereof, he may, by an order in writing containing a statement of the grounds of his opinion, prohibit, until the danger is removed, the employment in or about the mine or any part thereof of any person whose employment is not in his opinion reasonably necessary for the purpose of removing the danger.

(*4*) Where an order has been made under sub-section (*3*) by an Inspector, the owner, agent or manager of the mine may, within ten days after the receipt of the order, appeal against the same to the Chief Inspector who may confirm, modify or cancel the order.

(*5*) The Chief Inspector or the Inspector making a requisition under sub-section (*1*) or an order under sub-section (*3*), and the Chief Inspector making an order (other than an order of cancellation) in appeal under sub-section (*4*) shall forthwith report the same to the Central Government.

(*6*) If the owner, agent or manager of the mine objects to a requisition made under sub-section (*1*) or to an order made by the Chief Inspector under sub-section (*3*), or sub-section (*4*), he may, within twenty days after the receipt of the notice containing the requisition or of the order or after the date of the decision of the appeal, as the case may be, send his objection in writing stating the grounds thereof, to the Central Government which shall refer the same to a Committee.

(*7*) Every requisition made under sub-section (*1*), or order made under sub-section (*3*), or sub-section (4) to which objection is made under sub-section (*6*), shall be complied with pending the receipt at the mine of the decision of the Committee :

Provided that the Committee may, on the application of the owner, agent or manager, suspend the operation of a requisition under sub-section (*1*), pending its decision on the objection.

(*8*) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898 (Act V of 1898).

23. Notice to be given of accidents.—(*1*) When any accident occurs in or about a mine causing loss of life or serious bodily injury or when an accidental explosion, ignition, spontaneous heating, outbreak of of fire, irruption of water, breakage of ropes, chains or other gear by which men are lowered or raised, or when an accidental overwinding of cages occurs in or about a mine while men or being lowered or raised, the owner, agent or manager of the mine shall give notice of the occurrence to such authority, in such form and within such time as may be prescribed, and he shall simultaneously post one copy of

the notice on a special notice board in the prescribed manner at a place where it may be inspected by trade union officials and shall ensure that the notice is kept on the board for not less than two months from the date of such posting.

(*2*) On receipt of the notice under sub-section (*1*), the authority shall, if he is the Inspector, or if he is not the Inspector, cause the Inspector to make an inquiry into the occurrence within two months of the receipt of the notice.

(*3*) The Central Government may, by notification in the official Gazette, direct that accidents other than those specified in sub-section (*1*), which cause bodily injury resulting in the enforced absence from work of the person injured for a period exceeding forty-eight hours shall be entered in a register in the prescribed form or shall be subject to the provisions of sub-section (*1*).

(*4*) A copy of the entries in the register referred to in sub-section (*3*) shall be sent by the owner, agent, or manager of the mine, within fourteen days after the 30th day of June and the 31st day of December in each year, to the Chief Inspector.

24. Power of Government to appoint Court of Inquiry in cases of accidents.—(*1*) When any accident occurs in or about a mine causing loss of life or serious bodily injury or when an accidental explosion, ignition, spontaneous heating, outbreak of fire, irruption of water, breakage of ropes, chains or other gear by which men are lowered or raised, or when an accidental overwinding of cages occurs in or about a mine while men are being lowered or raised, the Central Government may, if it is of opinion that a formal inquiry into the causes of and circumstances attending the accident ought to be held, appoint a competent person to hold such inquiry and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(*2*) The person appointed to hold any such inquiry shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (Act XLV of 1860).

(*3*) Any person holding an inquiry under this section may exercise such of the powers of an Inspector under this Act as he may think it necessary or expedient to exercise for the purposes of the inquiry.

(*4*) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make.

25. Notice of certain diseases.—(*1*) Where any person employed in a mine contracts any disease notified by the Central Government in the official Gazette as a disease connected with mining operations, the owner, agent or manager of the mine, as the case may be, shall send notice thereof to the Chief Inspector and to such other authorities, in such form and within such time as may be prescribed.

(*2*) If any medical practitioner attends on a person who is or has been employed in a mine and who is or is believed by the medical practitioner to be suffering from any disease notified under sub-section (*1*), the medical practitioner shall without delay send a report in writing to the Chief Inspector stating—

(*a*) the name and address of the patient,

(*b*) the disease from which the patient is or is believed to be suffering, and

(*c*) the name and address of the mine in which the patient is or was last employed.

(*3*) Where the report under sub-section (*2*) is confirmed to the satisfaction of the Chief Inspector by the certificate of a certifying surgeon or otherwise that the person is suffering from a disease notified under sub-section (*1*), the Chief Inspector shall pay to the medical practioner such fee as may be prescribed, and the fee so paid shall be recoverable as an arrear of land revenue from the owner, agent or manager of the mine in which the person contracted the disease.

(*4*) If any medical practioner fails to comply with the provisions of sub-section (*2*), he shall be punishable with fine which may extend to fifty rupees.

26. Power to direct investigation of causes of disease.—(*1*) The Central Government may, if it considers it expedient to do so, appoint a competent person to inquire into and report to it on any case where a disease notified under sub-section (*1*) of section 25 has been or is suspected to have been contracted in a mine, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(*2*) The provisions of sub-sections (*2*) and (3) of section 24 shall apply to an inquiry under this section in the same manner as they apply to any inquiry under that section.

27. Publication of reports.—The Central Government may cause any report submitted by a Committee under section 13 or any report or extracts from any report submitted to it under section 26, and shall cause every report submitted by a Court of inquiry under section 24 to be published at such time and in such manner as it may think fit.

CHAPTER VI.

Hours and Limitation of Employment.

28. Weekly day of rest.—No person shall be allowed to work in a mine on more than six days in any one week.

29. Compensatory days of rest.—(*1*) Where in pursuance of action under section 37 or as a result of exempting any mine or the persons employed therein from the provisions of section 28, any person employed therein is deprived of any of the weekly days of rest for which provision is made in section 28, he shall be allowed, within the month in which such days of rest were due to him or within the two months immediately following that month, compensatory days of rest equal in number to the days of rest of which he has been deprived.

(*2*) The Central Government may prescribe the manner in which the days of rest for which provision is made in sub-section (*1*) shall be allowed.

30. Hours of work above ground.—(*1*) No adult employed above ground in a mine shall be required or allowed to work for more than forty-eight hours in any week or for more than nine hours in any day.

(*2*) The periods of work of any such adult shall be so arranged that along with his interval for rest, they shall not in any day spread over more than twelve hours, and that he shall not work for more than five hours continuously before he has had an interval for rest of at least half an hour:

Provided that the Chief Inspector may, for reasons to be recorded, increase the period of spread over to fourteen hours in any day.

(*3*) Adults belonging to two or more relays shall not be allowed to do work of the same kind above ground at the same moment:

Provided that, for the purposes of this sub-section, adults shall not be deemed to belong to separate relays by reason only of the fact that they receive their intervals for rest at different times.

31. Hours of work below ground.—(*1*) No adult employed below ground in a mine, except a pump-minder, an onsetter or attendant of continuously operated machinery, shall be allowed to work for more than forty-eight hours in any week or for more than eight hours in any day.

(*2*) No adult excepted under sub-section (*1*) shall be allowed to work for more than fifty-four hours in any week or for more than nine hours in any day.

(*3*) Work of the same kind shall not be carried on below ground in any mine for period spreading over more than eight hours in the case of adults referred to in sub-section (*1*), and nine hours in the case of adults referred to in sub-section (*2*), in any day except by a system of relays so arranged that the periods of work for each relay are not spread over more than the hours stipulated in sub-section (*1*) or sub-section (*2*), as the case may be.

(*4*) No adult employed in a mine shall be allowed to be in any part of a mine below ground, except during the periods of work shown in respect of him in the register kept under sub-section (*1*) of section 48.

32. Special provision for night relays.—Where a worker works in a relay whose period of work extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning at the end of the period of work fixed for the relay, and the hours he has worked after midnight shall be counted towards the previous day.

33. Extra wages for overtime.—(*1*) Where a person employed in a mine works therein for more than forty-eight hours whether above or below ground, he shall in respect of such overtime work be entitled to wages at the rate of twice his ordinary rate of wages if he works below ground, and at one and a half times that rate if he works above ground.

(*2*) Where any person employed in a mine is paid on piece-rate basis, the Central Government shall, in consultation with the employer concerned and the representatives of the persons employed in the mine, fix for the purposes of this section time rates which shall, as nearly as possible be equivalent to the average rate of earnings of the persons so employed, and the rates so fixed shall be deemed to be the ordinary rates of wages of such persons.

(*3*) For the purposes of this section 'ordinary rate of wages' means the basic wages *plus* such allowances including the cash equivalent of the advantage accruing through the sale on a concessional basis of

foodgrains and other articles as persons employed in a mine may, for the time being, be entitled to, but does not include a bonus.

(*4*) The Central Government may prescribe the registers to be maintained in a mine for the purpose of securing compliance with the provisions of this section.

34. Prohibition of employment of certain persons.—No person shall be allowed to work in a mine who has already been working in any other mine within the preceding twelve hours.

35. Limitation of periods of overtime work.—Save in respect of cases falling within clause (*a*) of section 39, no person employed in a mine shall be allowed to work for more than ten hours in any day, inclusive of overtime, nor shall the total number of hours of his overtime work exceed fifty for any one quarter:

Provided that—

(*i*) subject to the previous approval of the Chief Inspector, the daily maximum hours specified in sections 30 and 31 may be exceeded in order to facilitate a change of shifts;

(*ii*) an adult, engaged in work which for technical reasons must be continuous throughout the day, may be employed for fifty-six hours a week.

Explanation.—In this section 'quarter' means a period of three consecutive months beginning with the 1st day of January, April, July or October.

36. Notices regarding hours of works.—(*1*) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of relays, the time of the commencement and of the end of work for each relay.

(*2*) In the case of a mine at which mining operations commence after the commencement of this Act, the notice referred to in sub-section (*1*) shall be posted not less than seven days before the commencement of work.

(*3*) The notice referred to in sub-section (*1*) shall also state the time of the commencement and of the intervals for rest for persons employed above ground and a copy thereof shall be sent to the Chief Inspector, if he so requires.

(*4*) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally

or for any relay or in the rest intervals fixed for persons employed above ground, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made, and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change.

(*5*) No person shall be allowed to work in a mine otherwise than in accordance with the notice required by sub-section (*1*).

37. Supervising staff.—Nothing in section 28, section 30, section 31, section 34, or sub-section (*4*) of section 36 shall apply to persons who may by rules be defined to be persons holding positions of supervision or management or employed in a confidential capacity.

38. Exemption from provisions regarding employment.—(*1*) In case of an emergency involving serious risk to the safety of the mine or of persons employed therein, or in case of an accident, whether actual or apprehended, or in case of any act of God or in case of any urgent work to be done to machinery, plant or equipment of the mine as the result of breakdown of such machinery, plant or equipment, the manager may, subject to the provisions of section 22 and in accordance with the regulations under section 39, permit persons to be employed in contravention of section 28, section 30, section 31, section 34 or sub-section (*4*) of section 36, on such work as may be necessary to protect the safety of the mine or of the persons employed therein:

Provided that, in case of any urgent work to be done to machinery, plant or equipment under this section, the manager may take the action permitted by this section, although the production of coal would thereby be incidentally affected, but any action so taken shall not exceed the limits necessary for the purpose of avoiding serious interference with the ordinary working of the mine.

(*2*) Every case in which action has been taken by the manager under sub-section (*1*), shall be recorded together with the circumstances relating thereto and a report thereof shall also be made to the Chief Inspector or the Inspector.

39. Power to make exempting rules.—The Central Government may make rules providing for the exemption, to such extent and subject to such conditions as may be specified, from the provisions of sections 28, 30, 31, 34 or sub-section (*4*) of section 36,—

(*a*) of all or any of the persons employed in a mine, where an emergency involving serious risk to the safety of the mine or of the persons employed therein is apprehended;

(*b*) of all or any of the persons so employed, in case of an accident, actual or apprehended ;

(*c*) of all or any of the persons engaged in urgent repairs ; and

(*d*) of all or any of the persons employed in any work which for technical reasons must be carried on continuously throughout the day.

40. Employment of adolescents.—No adolescent shall be allowed to work in any part of a mine which is below ground, unless—

(*a*) a medical certificate in the prescribed form granted to the adolescent by a certifying surgeon certifying that he is fit for work as an adult is in the custody of the manager of the mine, and

(*b*) the adolescent carries, while at work, a token giving a referecne to such certificate.

41. Certificate of fitness.—(*1*) A certificate of fitness granted or renewed for the purposes of section 40,—

(*a*) shall be valid only for a period of twelve months from the date thereof ;

(*b*) may be subject to specified conditions in regard to employment generally or the nature of the work in which the adolescent may be employed.

(*2*) A certifying surgeon shall revoke a certificate granted or renewed under section 40, if in his opinion the holder of it is no longer fit for work in the capacity stated therein in a mine.

(*3*) Where a certifying surgeon refuses to grant or renew a certificate or revokes a certificate, he shall, if so required by the person concerned, state his reasons in writing for so doing.

(*4*) Where a certificate under section 40 with reference to any adolescent is granted or renewed subject to such conditions as are referred to in clause (*b*) of sub-section (*1*), an adolescent shall not be required or allowed to work in any mine except in accordance with those conditions.

(*5*) The adolescent or his parents shall not be liable to pay any part of the expenses of any medical examination under section 40 in all cases where the application for a medical certificate is accompanied by a document signed by the manager of a mine stating that the adolescent to be examined will be employed in the mine if certified to be fit for work therein or the application is made by the manager of the mine in which the adolescent desires to be employed.

42. Effect of certificate of fitness granted to adolescents.—An adolescent, who has been granted a certificate of fitness to work in a mine as an adult under section 40, and who while actually employed in a mine carries a token giving a reference to such certificate, shall be deemed to be an adult for the purposes of this Act.

43. Power to require medical examination.—Where an Inspector is of opinion that any person employed in a mine without a certificate of fitness is an adolescent or that an adolescent working in a mine with a certificate of fitness is no longer fit to work in the capacity stated in the certificate, he may serve on the manager of the mine a notice requiring that such person or adolescent, as the case may be, shall be examined by a certifying surgeon and such person or adolescent shall not, if the Inspector so directs, be employed or permitted to work in any mine until he has been so examined and has been granted a certificate of fitness, or a fresh certificate of fitness as the case may be, under section 40, or has been certified by the certifying surgeon examining him not to be an adolescent.

44. Working hours for adolescents not certified to be fit for work as adults.—(*1*) No adolescent who has not been granted a medical certificate certifying that he is fit for work as an adult shall be employed or permitted to be employed above ground or in any workshop or power station in a mine or in any open cast workings in a mine—

(*a*) for more than four and a half hours in any day; or

(*b*) between the hours of 7 P.M. and 6 A.M.

(*2*) The period of work of all such adolescents employed in a mine shall be limited to two shifts which shall not overlap or spread over more than five hours each, and each such adolescent shall be employed in only one of the relays which shall not, except with the previous permission in writing of the Chief Inspector, be changed more frequently than once in a period of thirty days.

(*3*) The provisions of section 28 shall apply to such adolescents and notwithstanding anything contained in sub-section (*1*) of section 38 or in section 39, no exemption from the provisions of section 28 shall be granted in respect of any adolescent.

45. Employment of children.—(*1*) No child shall be employed in any mine, nor shall any child be allowed to be present in any part of a mine which is below ground or in any open excavation in which any mining operation is being carried on.

(2) After such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, no child shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on.

46. Employment of women.—No women shall be employed at any time of the day or night in any part of a mine which is below the adjacent ground level, and no woman shall be employed in any mine above ground except between the hours of 6 A.M. and 7 P.M.:

Provided that the Central Government may, by notification in the official Gazette, vary the hours of employment of women, above ground in respect of any mine or class or description of mine, so however that no employment of any women between the hours of 10 P.M. and 5 A.M. is permitted thereby.

47. Disputes as to age.—(1) If any question arises between the Chief Inspector or Inspector and the manager of any mine as to whether any person is a child or an adolescent the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner, be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.

(2) Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

48. Registers of persons employed.—(1) For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person—

(a) the name of the employee, with the name of his father or, of her husband, as the case may be, and such other particulars as may be necessary for purposes of identification;

(b) the age and sex of the employee;

(c) the nature of his employment whether above ground, below ground or open cast workings, and the date of commencement thereof;

(d) the periods of work fixed for him;

(e) the intervals for rest, if any, and the days of rest to which he is entitled;

(*f*) in the case of an adolescent, reference to the certificate of fitness granted under section 40;

(*g*) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him;

(*h*) such other particulars as may be prescribed;

and the relevant entries shall be authenticated by the signature or the thumb impression of the person concerned.

(*2*) The entries in the register prescribed by sub-section (*1*) shall be such that workers working in accordance therewith would not be working in contravention of any of the provisions of this Chapter.

(*3*) No person shall be employed in a mine until the particulars required by sub-section (*1*) have been recorded in the register in respect of such person and no person shall be employed except during the periods of work shown in respect of him in the register.

(*4*) For every mine, other than a mine which is exempted by the Central Government by general or special order, there shall be kept in the prescribed form and place separate registers showing in respect of each person employed in the mine, (*a*) below ground, (*b*) in open cast workings and (*c*) above ground—

(*a*) the name of the employee;

(*b*) the nature of his employment;

(*c*) where work is carried on by a system of relays, the relay to which he belongs and the hours of relay, that is to say, the period of work fixed for him.

CHAPTER VII.

Leave with Wages.

49. Leave defined.—For the purposes of this Chapter leave shall not, except as provided in section 51, include weekly days of rest or holidays for festivals or other similar occasions.

50. Application of Chapter.—The provisions of this Chapter shall not operate to the prejudice of any rights to which a person employed in a mine may be entitled under any other law for the time being in force or under the terms of any award, agreement or contract of service, and, where any such award, agreement or contract of service provides for a longer leave with wages than is provided in this Chapter, such person shall be entitled to such longer leave only.

51. Annual leave with wages.—(*1*) Every person employed in a mine who has completed a period of twelve months' continuous service therein shall be allowed, during the subsequent period of twelve months, leave with full pay or wages based on the average pay or wages for the twelve months immediately preceding the leave, as provided in section 52, and such leave shall be calculated at the rate of—

(*i*) if he is an employee paid by the month, fourteen consecutive days for such period of twelve months:

(*ii*) if he is an employee paid by the week, or a loader, or other person employed below ground on a piece-rate basis, seven consecutive days for such period of twelve months.

(*2*) The twelve months' continuous service referred to in sub-section (*1*) shall be deemed to have been completed.—

(*a*) in the case of a loader, or other person employed below ground on a piece-rate basis, if he has during the said period of twelve months put in not less than one hundred and ninety attendances at the mine;

(*b*) in the case of a person employed above ground on a piece-rate basis or in the case of any other person who is paid by the month, week or day, if he has during the said twelve months put in not less than two hundred and sixty-five attendances at the mine.

Explanation.—In either of the above cases the period of leave shall be inclusive of the weekly days of rest and any holiday (if granted) which may occur during such period.

(*3*) If any person employed in a mine who is paid by the month does not in any one such period of twelve months take the whole of the leave allowed to him under sub-section (*1*), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months:

Provided that the total number of days of leave which may be accumulated by any such person shall not exceed twenty-eight days in all.

(*4*) Any such person may, during any such period of twelve months, apply in writing to the manager of the mine, not less than fifteen full working days before the day on which he wishes his leave to begin, for all leave or any portion thereof allowable to him during that period under sub-sections (*1*) and (*3*).

(*5*) No application for leave made in accordance with the provisions of this section shall ordinarily be refused, unless the authority empowered to grant the leave is of the opinion that owing to the exigencies of the situation the leave should be refused.

(*6*) If any person entitled to leave under this section is discharged from the mine before he has taken or has been allowed to take the entire leave to which he is entitled, the owner, agent or manager of the mine shall pay to him the pay or wages payable under section 51 in respect of the leave not taken and such payment shall be made before the expiry of the second working day after the day on which his employment is terminated.

Explanation 1.—For the purposes of this section, a person shall be deemed to have completed a period of continuous service in a mine, notwithstanding any interruption of service during that period brought about by—

(*i*) sickness, accident or authorised leave not exceeding in the aggregate one-sixth of that period, or

(*ii*) a strike, which is not an illegal strike, or

(*iii*) a lock-out, or

(*iv*) one or more periods of involuntary unemployment not exceeding in the aggregate one-twelfth of the period, or

(*v*) leave admissible or granted under any other law.

Explanation 2.—Authorised leave shall include any casual absence due to any reasonable cause :

Provided that the person concerned, within a week from the commencement of the absence, gives the reasons for such absence in writing to the owner, agent or manager of the mine, and any such period of authorised leave may include periods of unauthorised leave not exceeding in the aggregate one-thirty-sixth of the period of continuous service, but not weekly days of rest allowed under section 28 which occurs at the beginning or end of an interruption brought about by the leave.

Explanation 3.—"Illegal strike" means a strike which is an illegal strike within the meaning of section 24 of the Industrial Disputes Act, 1947 (XIV of 1947), or of any other law for the time being in force.

52. Wages during leave period.—(*1*) For the leave allowed to a loader, or other person employed below ground on a piece-rate basis, he shall be paid at a rate equal to the daily average of his earnings for the month of December prior to his leave:

Provided that if no such average earnings are available, then the average shall be computed on the basis of the daily average earnings of all persons similarly employed for the same month, and for the purpose of such computation the cash equivalent of the advantage accruing to such persons through the free issue of food grains and any compensation in cash drawn by them during the said month shall be taken into account.

(*2*) For the leave allowed to a person employed in a mine who is paid by the month or week he shall be paid at a rate equal to his normal daily wages during the week preceding his leave, and in computing such wages the cash equivalent of the advantage accruing to him through the free issue of food grains and any compensation in cash drawn by him shall also be taken into account.

53. Payment in advance in certain cases.—Any person employed in a mine who has been allowed leave for not less than ten days in the case of a person paid by the month, and five days, either in the case of a person paid by the week or in the case of a loader, or other person employed below ground on a piece-rate basis, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

54. Power of Inspector to act for an employee.—Any Inspector may institute proceedings on behalf of any person employed in a mine to recover any sum required to be paid by an employer under this Chapter, which has not been paid by the employer.

55. Power to make rules.—The Central Government may, by rules, prescribe the maintenance by owners, agents or managers of mines of registers showing particulars as may be required for the purposes of this Chapter and requiring such registers to be made available for examination by Inspectors.

56. Power to exempt mines.—Where the Central Government is satisfied that the leave rules applicable to persons employed in any mine provide benefits which in its opinion are not less favourable than those provided for in this Chapter, it may, by order in writing and subject to such conditions as may be specified therein, exempt the mine from all or any of the provisions of this Chapter.

CHAPTER VIII

REGULATIONS, RULES AND BYE-LAWS.

57. Power of Central Government to make regulations.—The Central Government may, by notification in the official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely :—

(*a*) for prescribing the qualifications required for appointment as Chief Inspector or Inspector;

(*b*) for prescribing and regulating the duties and powers of the Chief Inspector and of Inspectors in regard to the inspection of mines under this Act;

(*c*) for prescribing the duties of owners, agents and managers of mines and of persons acting under them;

(*d*) for requiring facilities to be provided for enabling managers of mines and other persons acting under them to efficiently discharge their duties;

(*e*) for regulating the manner of ascertaining, by examination or otherwise, the qualifications of managers of mines and persons acting under them, and the granting and renewal of certificates of competency;

(*f*) for fixing the fees, if any, to be paid in respect of such examinations and of the grant and renewal of such certificates;

(*g*) for determining the circumstances in which and the conditions subject to which it shall be lawful for more mines than one to be under a single manager, or for any mine or mines to be under a manager not having the prescribed qualification;

(*h*) for providing for the making of inquiries into charges of misconduct or incompetency on the part of managers of mines and persons acting under them and for the suspension and cancellation of certificates of competency;

(*i*) for regulating, subject to the provisions of the Indian Explosives Act, 1884 (IV of 1884), and of any rules made thereunder, the storage, conveyance and use of explosives;

(*j*) for prohibiting, restricting or regulating the employment of women in mines or in any class of mines or on particular kinds of labour which are attended by danger to the life, safety or health of such women and for limiting the weight of any single load that may be carried by a woman;

(*k*) for providing for the safety of the persons employed in a mine, their means of entrance therein to and exit therefrom, the number of shafts or outlets to be furnished, and the fencing of shafts, pits, outlets, pathways and subsidences;

(*l*) for prohibiting the employment in a mine either as manager or in any other specified capacity of any person except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine;

(*m*) for providing for the safety of the roads and working places in mines, including the siting, maintenance and extraction of pillars and the maintenance of sufficient barriers between mine and mine;

(*n*) for the inspection of workings and sealed off fire-areas in a mine, and for the restriction of workings under rivers, tanks, water-courses, public roads and buildings and for requiring due precaution to be taken against the onrush of water into, outbreak of fire in or premature collapse of any workings;

(*o*) for providing for the ventilation of mines and the action to be taken in respect of dust, fire, and inflammable and noxious gases, including precautions against spontaneous combustion, underground fire and coal dust;

(*p*) for providing for the care, and the regulation of the use, of all machinery and plant and of all electrical apparatus used for signalling or for other purposes of communication;

(*q*) for providing for the safety of persons present on haulage routes and for restricting the use of certain classes of locomotives undergound;

(*r*) for providing for proper lighting of mines and regulating the use of safety lamps therein and for the search of persons entering a mine in which safety lamps are in use;

(*s*) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in the premature collapse of, or to result in or to aggravate the collapse of or irruptions of water or ignitions in mines;

(*t*) for prescribing the notices of accidents and dangerous occurrences, and the notices, reports and returns of mineral output, persons employed and other matters provided for by regulations, to be furnished by owners, agents, and managers of

mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the time within which they are to be submitted;

(*u*) for prescribing the plans to be kept by owners, agents and managers of mines and the manner and places in which such plans are to be kept for purposes of record and for the submission of copies thereof to the Chief Inspector;

(*v*) for regulating the procedure on the occurrence of accidents or accidental explosions or ignitions in or about mines;

(*w*) for prescribing the form of, and the particulars to be contained in, the notice to be given by the owner, agent or manager of a mine under section 16; and

(*x*) for prescribing the notice to be given by the owner, agent or manager of a mine before mining operations are commenced at or extended to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890 (IX of 1890), or of any public work or classes of public works which the Central Government may, by general or special order, specify in this behalf.

58. Power of Central Government to make rules.—The Central Government may, by notification in the official Gazette, make rules consistent with this Act for all or any of the following purposes, namely:—

(*a*) for providing for the appointment of chairman and members of Mining Boards, and for regulating the procedure of such Boards;

(*b*) for prescribing the form of the register referred to in sub-section (*3*) of section 23;

(*c*) for providing for the appointment of Courts of inquiry under section 24, for regulating the procedure and powers of such Courts, for the payment of travelling allowance to the members, and for the recovery of the expenses of such Courts from the manager, owner or agent of the mine concerned;

(*d*) for requiring the maintenance in mines wherein any women are ordinarily employed of suitable rooms to be reserved for the use of children under the age of six years belonging to such women, and for prescribing, either generally or with particular reference to the number of women ordinarily employed in the mine, the number and standards of such rooms, and the nature and extent of the supervision to be provided therein;

(*e*) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing, either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms;

(*f*) for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines, the provision to be made for the supply of drinking-water, the supply and maintenance of medical appliances and comforts, and the training of men in ambulance work;

(*g*) for prohibiting the possession or consumption of intoxicating drinks or drugs in a mine and the entry or presence therein of any person in a drunken state;

(*h*) for prescribing the form of notices required under section 36, and for requiring such notices to be posted also in specified languages;

(*i*) for defining the persons who shall, for the purpose of section 37, be deemed to be persons holding positions of supervision or management or employed in a confidential capacity;

(*j*) for prohibiting the employment in mines of persons or any class of persons who have not been certified by a qualified medical practitioner to have completed their fifteenth year, and for prescribing the manner and the circumstances in which such certificates may be granted and revoked;

(*k*) for prescribing the form of the certificate of fitness required by section 40, the conditions subject to which and the circumstances in which they may be granted and the circumstances in which they may be revoked;

(*l*) for prescribing the form of registers required by section 48;

(*m*) for prescribing abstracts of this Act and of the regulations and rules and the language in which the abstracts and bye-laws shall be posted as required by sections 61 and 62;

(*n*) for requiring the fencing of any mine or part of a mine or any quarry, incline, shaft, pit or outlet whether the same is being worked or not, or any dangerous or prohibited area, subsidence, haulage, tramline or pathway, where such fencing is necessary for the protection of the public;

(*o*) for the protection from injury, in respect of any mine when the workings are discontinued, of property vested in the Government or any local authority or railway company as defined in the Indian Railways Act, 1890 (IX of 1890);

(*p*) for requiring notices, returns and reports in connection with any matters dealt with by rules to be furnished by owners, agents and managers of mines, and for prescribing the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished, the particulars to be contained in them, and the times within which they are to be submitted;

(*q*) for requiring the provisions and maintenance in mines, wherein more than one hundred and fifty persons are ordinarily employed, of adequate and suitable shelters for taking food with provision for drinking water;

(*r*) for requiring the provision and maintenance in any mine specified in this behalf by the Chief Inspector or Inspector, wherein more than two hundred and fifty persons are ordinarily employed, of a canteen or canteens for the use of such persons;

(*s*) for requiring the employment in every mine wherein five hundred or more persons are ordinarily employed, of such number of welfare officers as may be specified;

(*t*) for requiring the establishment of central rescue stations for groups of specified mines or for all mines in a specified area, and prescribing how and by whom such stations shall be established;

(*u*) for providing for the management of central rescue stations, and regulating the constitution, powers and functions of, and the conduct of business by, the authorities (which shall include representatives of the owners and managers of, and of the miners employed in, the mines or groups of mines concerned) charged with such management;

(*v*) for prescribing the position, equipment, control, maintenance and functions of central rescue stations;

(*w*) for providing for the levy and collection of a duty of excise (at a rate not exceeding six pies per ton) on coke and coal produced in and despatched from mines specified under clause (*s*) in any group or included under clause (*s*) in any specified area, the utilisation of the proceeds thereof for the creation of

a central rescue station fund for such group or area and the administration of such funds;

(*x*) for providing for the formation, training, composition and duties of rescue brigades; and generally for the conduct of rescue work in mines; and

(*y*) generally to provide for any matter not provided for by this Act or the regulations, provision for which is required in order to give effect to this Act.

59. Prior publication of regulations and rules.—(*1*) The power to make regulations and rules conferred by sections 57 and 58 is subject to the condition of the regulations and rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897 (X of 1897), as that after which a draft of regulations or rules proposed to be made will be taken under consideration, shall not be less than three months from the date on which the draft of the proposed regulations or rules is published for general information.

(*3*) Before the draft of any regulation is published under this section it shall be referred to every Mining Board which is, in the opinion of the Central Government concerned with the subject dealt with by the regulation, and the regulation shall not be so published until each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.

(*4*) No rule shall be made unless the draft has been referred to every Mining Board constituted in the part of the territories to which this Act extends, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same as to the suitability of its provisions.

(*5*) Regulations and rules shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

(*6*) The provisions of sub-sections (*1*), (*2*) and (*4*) shall not apply to the first occasion on which rules referred to in clause (*d*) or clause (*e*) of section 58 are made.

60. Power to make regulations without previous publication.—Notwithstanding anything contained in sub-sections (*1*), (*2*) and (*3*) of section 59, regulations under clause (*i*) and clauses (*k*) to (*s*) excluding clause (*l*) of section 57 may be made without previous publication

and without previous reference to Mining Boards, if the Central Government is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference:

Provided that any regulations so made shall not remain in force for more than two years from the making thereof.

61. Bye-laws.—(*1*) The owner, agent or manager of a mine may, and shall, if called upon to do so by the Chief Inspector or Inspector, frame and submit to the Chief Inspector or Inspector a draft of such bye-laws, not being inconsistent with this Act or any regulations or rules for the time being in force, for the control and guidance of the persons acting in the management of, or employed in, the mine as such owner, agent or manager may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in the mine.

(*2*) If any such owner, agent or manager—

(*a*) fails to submit within two months a draft of bye-laws after being called upon to do so by the Chief Inspector or Inspector, or

(*b*) submits a draft of bye-laws which is not in the opinion of the Chief Inspector or Inspector sufficient, the Chief Inspector or Inspector may—

(*i*) propose a draft of such bye-laws as appear to him to be sufficient, or

(*ii*) propose such amendments in any draft submitted to him by the owner, agent or manager as will, in his opinion, render it sufficient, and shall send such draft bye-laws or draft amendments to the owner, agent or manager as the case may be, for consideration.

(*3*) If within a period of two months from the date on which any draft bye-laws or draft amendments are sent by the Chief Inspector or Inspector to the owner, agent or manager under the provisions of sub-section (*2*), the Chief Inspector or Inspector and the owner, agent or manager are unable to agree as to the terms of the bye-laws to be made under sub-section (*1*), the Chief Inspector or Inspector shall refer the draft bye-laws for settlement to the Mining Board, or where there is no Mining Board, to such officer or authority as the Central Government may, by general or special order, appoint in this behalf.

(4) (*a*) When such draft bye-laws have been agreed to by the owner, agent or manager and the Chief Inspector or Inspector, or, when they are unable to agree, have been settled by the Mining Board or such officer, or authority as aforesaid, a copy of the draft bye-laws shall be sent by the Chief Inspector or Inspector to the Central Government for approval.

(*b*) The Central Government may make such modification of the draft bye-laws as it thinks fit.

(*c*) Before the Central Government approves the draft bye-laws, whether with or without modifications, there shall be published, in such manner as the Central Government may think best adapted for informing the persons affected, notice of the proposal to make the bye-laws and of the place where copies of the draft bye-laws may be obtained, and of the time (which shall not be less than thirty days) within which any objections with reference to the draft bye-laws, made by or on behalf of persons affected should be sent to the Central Government.

(*d*) Every objection shall be in writing and shall state—

(i) the specific grounds of objections, and

(ii) the omissions, additions or modifications asked for.

(*e*) The Central Government shall consider any objection made within the required time by or on behalf of persons appearing to it to be affected, and may approve the bye-laws either in form in which they were published or after making such amendments thereto as it thinks fit.

(5) The bye-laws, when so approved by the Central Government, shall have effect as if enacted in this Act, and the owner, agent or manager of the mine shall cause a copy of the bye-laws, in English and in such other language or languages as may be prescribed, to be posted up in some conspicuous place at or near the mine, where the bye-laws may be conveniently read or seen by the persons employed; and, as often as the same become defaced, obliterated or destroyed, shall cause them to be renewed with all reasonable despatch.

(6) The Central Government may, by order in writing, rescind, in whole or in part, any bye-law so made, and thereupon such bye-law shall cease to have effect accordingly.

62. Posting up of extracts from Act, Regulations, etc.—There shall be kept posted up at or near every mine in English and in such other language or languages as may be prescribed, the prescribed abstracts of the Act and of the regulations and rules.

CHAPTER IX.

PENALTIES AND PROCEDURE.

63. Obstruction.—(1) Whoever obstructs the Chief Inspector, an Inspector, or any person authorised under section 8 in the discharge of his duties under this Act, or refuses or wilfully neglects to afford the Chief Inspector, Inspector or such person any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act in relation to any mine, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever refuses to produce on the demand of the Chief Inspector or Inspector any registers or other documents kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe to be likely to prevent any person from appearing before or being examined by an inspecting officer acting in pursuance of his duties under this Act, shall be punishable with fine which may extend to three hundred rupees.

64. Falsification of records, etc.—Whoever—

(*a*) counterfeits, or knowingly makes a false statement in, any certificate, or any official copy of a certificate, granted under this Act, or

(*b*) knowingly uses as true any such counterfeit or false certificate, or

(*c*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false, for the purpose of obtaining for himself or for any other person a certificate, or the renewal of a certificate, under this Act, or any employment in a mine, or

(*d*) falsifies any plan or register or record the maintenance of which is required by or under this Act, or

(*e*) makes, gives or delivers any plan, return, notice, or record or report containing a statement, entry or detail which is not to the best of his knowledge or belief true,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

65. Use of false certificates of fitness.—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 40 a certificate granted to another person under that section,

or, having been granted a certificate of fitness to himself under that section, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

66. Omission to furnish plans, etc.—Any person who, without reasonable excuse the burden of proving which shall lie upon him, omits to make or furnish in the prescribed form or manner or at or within the prescribed time any plan, return, notice, register, record or report required by or under this Act to be made or furnished shall be punishable with fine which may extend to two hundred rupees.

67. Contravention of provisions regarding employment of labour.—Whoever, save as permitted by section 38, contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder prohibiting, restricting or regulating the employment or presence of persons in or about a mine shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to seventy-five rupees for each day on which contravention is so continued.

68. Penalty for double employment of young persons.—If a child or an adolescent is employed in a mine on any day on which he has already been employed in another mine, his parent or guardian or the person who has the custody of such child or adolescent or who obtains any direct benefit from his wages shall be punishable with fine which may extend to fifty rupees, unless it appears to the Court that the child or adolescent was so employed without the consent or connivance of such parent, guardian or person.

69. Failure to appoint Manager.—Whoever in contravention of the provisions of section 17, fails to appoint a manager shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

70. Notice of accidents.—(1) Whoever in contravention of the provision of sub-section (1) of section 23 fails to give notice of any accidental occurrence or to post a copy of the notice on the special notice board referred to in that sub-section and to keep it there for the period

specified shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

(2) Whoever in contravention of a direction made by the Central Government under sub-section (3) of section 23 fails to record in the prescribed register or to give notice of any accidental occurrence shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

71. Owner, etc., to report to Chief Inspector in certain cases.—Where the owner, agent or manager of mine, as the case may be, has taken proceedings under this Act against any person employed in or about a mine in respect of an offence under this Act, he shall within twenty-one days from the date of the judgment or order of the Court report the result thereof to the Chief Inspector.

72. Obligation of persons employed in a mine.—No person employed in a mine shall—

(*a*) wilfully interfere with or misuse any appliance, convenience or other thing provided in a mine for the purpose of securing the health, safety or welfare of the persons employed therein ;

(*b*) wilfully and without reasonable cause do anything likely to endanger himself or others ;

(*c*) wilfully neglect to make use of any appliance or other thing provided in the mine for the purpose of securing the health or safety of the persons employed therein.

73. Disobedience of orders.—Whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder for the contravention of which no penalty is hereinbefore provided shall be punishable with imprisonment fer a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and, if the contravention is continued after conviction, with a further fine which may extend to one hundred rupees for each day on which the contravention is so continued.

74. Contravention of law with dangerous results.—(1) Notwithstanding anything hereinbefore contained, whoever contravenes any provision of this Act or of any regulation, rule or bye-law or of any order made thereunder, shall be punishable,—

(*a*) if such contravention results in loss of life, with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both ; or

(*b*) if such contravention results in serious bodily injury, with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or

(*c*) if such contravention otherwise causes injury or danger to persons employed in the mine or other persons in or about the mine, with imprisonment which may extend to one month or with fine which may extend to five hundred rupees, or with both.

(*2*) Where a person having been convicted under this section is again convicted thereunder he shall be punishable with double the punishment provided by sub-section (1).

(*3*) Any Court imposing, or confirming in appeal, revision or otherwise, a sentence of fine passed under this section may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured, or, in the case of his death to his legal representative:

Provided that if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented before the decision of the appeal.

75. Prosecution of owner, agent or manager.—No prosecution shall be instituted against any owner, agent or manager for any offence under this Act except at the instance of the Chief Inspector or of the District Magistrate or of an Inspector authorised in this behalf by general or special order in writing by the Chief Inspector:

Provided that in respect of an offence committed in the course of the technical direction and management of a mine, the District Magistrate shall not institute any prosecution against an owner, agent or manager without the previous approval of the Chief Inspector.

76. Determination of owner in certain cases.—Where the owner of a mine is a firm or other association of individuals, any one of the partners or members thereof or where the owner of a mine is a public company, any one of the directors thereof, or where the owner of a mine is a private company, any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the owner of a mine is punishable:

Provided that where a firm, association or company has given notice in writing to the Chief Inspector that it has nominated, —

(*a*) in the case of a firm any of its partners,

(*b*) in the case of an association, any of its members,

(*c*) in the case of a public company, any of its directors, or

(*d*) in the case of a private company, any of its shareholders,

who is resident in each case in any place to which this Act extends to assume the responsibilities of the owner of the mine for purposes of this Act, such partner, member, director or shareholder, as the case may be, shall, so long as he continues to so reside, be deemed to be the owner of the mine for the purposes of this Act, unless notice in writing cancelling his nomination or stating that he has ceased to be a partner, member, director or shareholder; as the case may be, is received by the Chief Inspector.

77. Exemption of owner, agent or manager from liability in certain cases.—Wher the owner, agent or manager of a mine, accused of an offence under this Act, alleges that another person is the actual offender, he shall be entitled, upon complaint made by him in this behalf and on giving to the prosecutor not less than three clear days notice in writing of his intention so to do, to have that other person brought before the Court on the date appointed for the hearing of the case; and if, after the commission of the offence has been proved, the owner, agent or manager of the mine, as the case may be, proves to the satisfaction of the Court—

(*a*) that he has used due diligence to enforce the execution of the relevant provisions of this Act, and

(*b*) that the other person committed the offence in question without his knowledge, consent or connivance,

the said other person shall be convicted of the offence and shall be liable to the like punishment as if he were the owner, agent or manager of the mine, and the owner, agent or manager, as the case may be, shall be acquitted:

Provided that—

(*a*) the owner, agent or manager of the mine, as the case may be, may be examined on oath and his evidence and that of any witness whom he calls in support shall be subject to cross-examination by or on behalf of the person he alleges as the actual offender and by the prosecutor;

(*b*) if in spite of due diligence the person alleged as the actual offender cannot be brought before the Court on the date appointed for the hearing of the case, the Court shall adjourn the hearing thereof from time to time so however that the total period of such adjournments does not exceed three

months, and if by the end of the said period the person alleged as the actual offender cannot be brought before the Court, the Court shall proceed to hear the case against the owner, agent or manager, as the case may be.

78. Power of Court to make orders.—(*1*) Where the owner, agent or manager of a mine is convicted of an offence punishable under this Act, the Court may in addition to awarding him any punishment, by order in writing, require him within a period specified in the order (which may be extended by the Court from time to time on application made in this behalf) to take such measures as may be so specified for remedying the matters in respect of which the offence was committed.

(*2*) Where an order is made under sub-section (*1*), the owner, agent or manager of the mine, as the case may be, shall not be liable under this Act in respect of the continuance of the offence during the period or extended period, if any, but if on the expiry of such period or extended period the order of the Court has not been fully complied with, the owner, agent or manager, as the case may be, shall be deemed to have committed a further offence and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees for every day after such expiry on which the order has not been complied with, or with both.

79. Limitation of prosecutions.—No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made—

(*1*) within six months of the date on which the offence is alleged to have been committed, or

(*2*) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector, or

(*3*) in any case where a Court of inquiry has been appointed by the Central Government under section 24, within six months after the date of the publication of the report referred to in sub-section (*4*) of that section,

whichever is later.

80. Cognizance of offences.—No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is by this Act made punishable with imprisonment.

81. Reference to Mining Board or Committee in lieu of prosecution in certain cases.—(*1*) If the Court trying any case instituted at the instance of the Chief Inspector or of the District Magistrate or of an Inspector under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee it may stay the criminal proceedings, and report the matter to the Central Government with a view to such reference being made.

(*2*) On receipt of a report under sub-section (*1*), the Central Government may refer the case to a Mining Board or a Committee, or may direct the Court to proceed with the trial.

CHAPTER X.

MISCELLANEOUS.

82. Decision of question whether a mine is under this Act.—If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Central Government may decide the question, and a certificate signed by a Secretary to the Central Government shall be conclusive on the point.

83. Power to exempt from operation of Act.—The Central Government may, by notification in the official Gazette, exempt either absolutely or subject to any specified conditions any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any of the provisions of this Act:

Provided that no local area or mine or group or class of mines shall be exempted from the provisions of section 45 unless it is also exempted from the operation of all the other provisions of this Act.

84. Power to alter or rescind orders.—The Central Government may reverse or modify any order passed under this Act.

85. Application of Act to mines belonging to Government.—This Act shall apply to mines belonging to the Central or any Provincial Government.

86. Application of certain provisions of Act LXIII of 1948 to mines.—The Central Government may, by notification in the official Gazette, direct that the provisions of Chapters III and IV of the Factories Act, 1948 (LXIII of 1948) shall, subject to such exceptions and restrictions as may be specified in the notification, apply to all mines and the precincts thereof.

87. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding whatever shall lie against any person for anything which is in good faith done or intended to be done under this Act.

88. **Repeal of Act IV of 1923.**—The Indian Mines Act, 1923 (IV of 1923) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The existing Indian Mines Act which relates to the regulation and inspection of mines was passed in 1923. Although it has since been amended in certain respects, the general framework has remained unchanged. Experience of the working of the Act has revealed a number of defects and deficiencies which hamper effective administration. Some of these necessitate new forms of control while others require the tightening up of the existing legal provisions. It has, therefore, been considered necessary to thoroughly overhaul the existing Act.

2. The proposed legislation differs from the existing law in certain respects. The more important features are mentioned below :—

(*i*) At present workshops run by a mine for the maintenance of its machinery and plant in safe and efficient working order are subject to the Factories Act, 1948, which is administered by Provincial Governments. Workers in workshops such as fitters, blacksmiths, welders, electricians and others frequently work for a part of the shift underground and while so employed come within the scope of the Mines Act. It is inconvenient that the same personnel should be subject to two different Acts administered by two different authorities. It is now proposed to bring all personnel engaged solely on work relating to mines within the scope of the Mines Act. For similar reasons it is proposed to bring within the scope of the Mines Act power stations which generate power used wholly in connection with the mine concerned.

(*ii*) Provision has been made in the Bill for the issue of certificates of fitness to adolescents and the appointment of certifying surgeons.

(*iii*) The provisions in the existing Act regarding conservancy and sanitary conveniences are of a general nature. The Bill provides for more definite arrangements for drinking water, latrines, urinals, etc.

(*iv*) It has been made obligatory on the part of the owner, agent or manager of a mine to report the contraction of any of certain notified diseases. Provision for the holding of an enquiry regarding the causes of contraction of a reported disease has also been made.

(*v*) It has also been laid down that first-aid appliances should be made available underground and that they should be kept in charge of qualified personnel.

(*vi*) A new chapter regarding the grant of compensatory holidays and holidays with pay has been included.

(*vii*) The existing Act does not specify the rate of payment for overtime work. In the Bill the rates for overtime has been fixed at 1½ times the ordinary rate of wages in the case of surface workers and at twice the ordinary rate for underground workers. The working hours for all workers, both surface and underground, have been reduced to 48 per week and no worker is to be allowed to work for more than 9 hours a day above ground and 8 hours a day below ground. The provisions in the existing Act permit workers on the surface to work for 54 hours a week or 10 hours a day and workers underground for 9 hours a day.

(*viii*) It is proposed to prohibit after a certain date to be notified by the Central Government the presence of children in any part of a mine where operations connected with, or incidental to, mining processes are being carried on. The intention is that the presence of children at mines should be prohibited as soon as arrangements for the provision of elementary education can be made in collieries.

(*ix*) The age limit of persons employed underground has been raised from 17 to 18 years.

(*x*) At present the penalty for violation of the provisions of the Act is only fine. It is proposed to provide that the punishment may be imprisonment or fine or both. This will bring the penalty provisions in line with the penalties prescribed in the Factories Act, 1948.

(*xi*) The employment of women underground is already prohibited. This prohibition will be continued. The employment of women on the surface between the hours of 7 P.M. and 6 A.M. will also be prohibited, but Provincial Governments will be empowered to relax these limits but not so as to authorise working between the hours of 10 P.M. and 5 A.M.

(*xii*) Opportunity has also been taken to include in the Bill provisions relating to health, safety and comfort of workers somewhat on the lines of the Factories Act, 1948.

3. It is hoped that when the Bill is passed into law, the provisions regulating labour and safety in mines will largely be on the lines of those contained in the Factories Act, 1948.

NEW DELHI;
The 22nd November, 1949.

JAGJIVAN RAM.

A. BILL* No. 63 OF 1949.

A Bill to provide for the administration of evacuee property and for certain matters connected therewith.

WHEREAS it is expedient to provide for the administration of evacuee property and for certain matters connected therewith;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title and extent.— (1) This Act may be called the Administration of Evacuee Property Act, 1949.

(2) It extends to all the Provinces of India (except Assam and West Bengal), and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "allotment" means the grant by the Custodian, or any other person duly authorised by the Custodian in this behalf, of a temporary right of use and occupation of any immoveable property of an evacuee to any person otherwise than by way of lease;

* In pursuance of sub-section (3) of section 299 of the Government of India Act, 1935, the Governor-General has given his previous sanction to the introduction of the Bill in the Constituent Assembly of India (Legislative).

(*b*) "Custodian-General" means the Custodian-General of Evacuee Property in India appointed by the Central Government under section 5;

(*c*) "Custodian" means the Custodian for the Province, and includes any Additional, Deputy or Assistant Custodian of evacuee property appointed for that Province;

(*d*) "evacuee" means any person,—

(*i*) who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, leaves or has, on or after the 1st day of March, 1947, left, any place in a Province for any place outside the territories now forming part of India, or

(*ii*) who is resident in any place now forming part of Pakistan and who for that reason is unable to occupy, supervise or manage in person his property in any part of the territories to which this Act extends, or whose property in any part of the said territories has ceased to be occupied, supervised or managed by any person or is being occupied, supervised or managed by an unauthorised person, or

(*iii*) who has, after the 14th day of August, 1947, acquired by way of allotment or by means of unlawful occupation or other illegal means any right to, interest in or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan;

(*e*) "intending evacuee" means any person who, after the 14th day of August, 1947,—

(*i*) has transferred to Pakistan his assets or any part thereof situated in any part of the territories to which this Act extends:

Provided that the transfer to Pakistan of any reasonable sum of money, for the purpose of financing any transaction in the ordinary course of his trade or for the maintenance of any member of the family of such person shall not be deemed to be a transfer of assets within the meaning of this sub-clause, or

(*ii*) has acquired, if the acquisition has been made in person, in any mode other than any of the modes specified in sub-clause (*iii*) of clause (*d*) of section 2, or, if the acquisition has been made by or through a member of his family, in any mode whatsoever, any right to, interest in or benefit

from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan, or

(*iii*) has, by the execution of any document of transfer in writing, whether registered or not, or by means of any other document in writing, sought to effect an exchange of the whole or any part of his property situated in any part of the territories to which this Act extends, with any property situated in Pakistan;

(*f*) "evacuee property" means any property in which an evacuee has any right or interest (whether personally or as a trustee or as a beneficiary or in any other capacity), and includes any property—

(*1*) which has been obtained by any person from an evacuee after the 14th day of August, 1947, by any mode of transfer, unless such transfer has been confirmed by the Custodian, or

(*2*) belonging to any person who, after the 18th day of October, 1949 has done or does any of the acts specified in clause (*e*) of section 2, or in which any such person has any right or interest, to the extent of such right or interest,

but does not include—

(*i*) any ornament and any wearing apparel, cooking vessels or other household effects in the immediate possession of an evacuee;

(*ii*) any property belonging to a joint-stock company, the registered office of which was situated before the 15th day of August, 1947, in any place now forming part of Pakistan and continues to be so situated after the said date;

(*g*) "member of the family" means any member of the family of an intending evacuee who is wholly dependent upon the earnings of such evacuee for the provision of the ordinary necessaries of life or who shares with such evacuee in the ordinary expenses of the household to which they jointly belong or who owns property or carries on business jointly with such evacuee;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "property" means property of any kind, and includes any right or interest in such property, but does not include a mere right to sue or a cash deposit in a bank;

(*j*) "unauthorised person" means any person (whether duly empowered in this behalf by the evacuee or otherwise) who, after the 14th day of August, 1947, has been occupying, supervising or managing the property of an evacuee without the approval of the Custodian.

3. Rule of construction in applying Act to Acceding States.—In the application of this Act to any Acceding State, unless there is anything repugnant in the subject or context,—

(*a*) references to the Provinces shall be construed as references to that Acceding State;

(*b*) references to any Provincial Government shall be construed as references to the Government of that Acceding State;

(*c*) references to the official Gazette shall be considered as references to the appropriate official publication of that Acceding State; and

(*d*) references to any enactment in force in the Provinces of India but not in force in that Acceding State shall be construed as references to the corresponding law in force in that State.

4. Act to override other laws.—The provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

CHAPTER II.

EVACUEE PROPERTY AND VESTING THEREOF IN THE CUSTODIAN.

5. Appointment of Custodian-General.—The Central Government may, by notification in the official Gazette, appoint a person to be the Custodian-General of Evacuee Property in India for the purpose of discharging the duties imposed on the Custodian-General by or under this Act.

6. Appointment of Custodians, etc.—(1) The Provincial Government may, by notification in the official Gazette, appoint for the Province a Custodian, and as many Additional Deputy or Assistant Custodians of evacuee property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act.

(2) Subject to the provisions of this Act all Custodians, Additional, Deputy or Assistant Custodians of evacuee property shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian-General.

(3) Subject to the provisions of sub-section (2), Additional, Deputy and Assistant Custodians shall discharge the duties imposed on them by or under this Act under the general superintendence and control of the Custodian for the Province, but the Provincial Government may, by general or special order, provide for the distribution of work among them.

7. Notification of evacuee property.—(1) Where the custodian is of opinion that any property is evacuee property within the meaning of this Act, he may, after causing notice thereof to be given in such manner as may be prescribed to the persons interested, and after holding such inquiry into the matter as the circumstances of the case permit, pass an order declaring any such property to be evacuee property.

(2) Where a notice has been issued under sub-section (1) in respect of any property, such property shall, pending the determination of the question whether it is evacuee property or otherwise, be incapable of being transferred or charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

(3) The Custodian shall, from time to time, notify, either by publication in the official Gazette or in such other manner as may be prescribed, all properties declared by him to be evacuee propertie under sub-section (1).

8. Vesting of evacuee property in the Custodian.—(1) Any property declared to be evacuee property under section 7 shall vest in the Custodian.

(2) Where immediately before the commencement of this Act any evacuee property in a Province had vested in any person exercising the powers of a Custodian under any law then in force, the evacuee property shall, on the commencement of this Act, be deemed to have vested in the Custodian appointed or deemed to have been appointed for the Province under this Act, and shall continue so to vest.

(3) Where any property in a Province belonging to a joint stock company had vested in any person exercising the powers of a Custodian under any law previously in force, then nothing contained in clause (*f*) of section 2 shall affect the operation of sub-section (2),

but the Provincial Government may, by notification in the official Gazette, direct that the Custodian shall be divested of any such property in such manner and after such period as may be specified in the notification.

(4) Where after any evacuee property has vested in the Custodian any person is in possession thereof, he shall be deemed to be holding it on behalf of the Custodian and shall on demand surrender possession of it to the Custodian or to any other person duly authorised by him in this behalf.

9. Power of Custodian to take possession of evacuee property vested in him.—If any person in possession of any evacuee property refuses or fails on demand to surrender possession thereof to the Custodian or to any person duly authorised by him in this behalf, the Custodian may use or cause to be used such force as may be necessary for taking possession of such property and may, for this purpose, after giving reasonable warning and facility to any woman not appearing in public to withdraw, remove or break open any lock, bolt or any door or do any other act necessary for the said purpose.

10. Powers and duties of the Custodian generally.—(1) Subject to the provisions of any rules that may be made in this behalf, the Custodian may take such measures as he considers necessary or expedient for the purposes of securing, administering, preserving and managing any evacuee property which has vested in him and may, for any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Custodian may, for any of the purposes aforesaid,—

(*a*) carry on the business of the evacuee;

(*b*) appoint a manager for the property of the evacuee or for carrying on any business or undertaking of the evacuee and authorise the manager to exercise any of the powers of the Custodian under this section;

(*c*) enter, or authorise any other person to enter, any land or premises to inspect any evacuee property;

(*d*) take all such measures as may be necessary to keep any evacuee property in good repair;

(*e*) complete any building which has vested in him and which requires to be completed;

(*f*) require any person, notwithstanding anything to the contrary contained in any other law for the time being in force relating to the disclosure of any information by a public servant or any other person, to furnish such returns, accounts or other information in relation to any property and to produce such documents in his possession as the Custodian considers necessary for the discharge of his duties under this Act;

(*g*) require any banking company to furnish such information as the Custodian may require with respect to any remittance made by any person to any place outside India after the 14th day of August, 1947;

(*h*) search, or authorise any other person to search, any building or place in which the Custodian has reason to believe that any evacuee property or any document tending to show that any person is an evacuee or that any property is evacuee property is being kept or concealed and take possession thereof;

(*i*) take such action as may be necessary for the recovery of any debt due to the evacuee;

(*j*) institute, defend or continue any legal proceeding in any civil or revenue Court on behalf of the evacuee or refer any dispute between the evacuee and any other person to arbitration or compromise any claims, debts or liabilities on behalf of the evacuee;

(*k*) raise on the security of the evacuee property such loans as may be necessary;

(*l*) in any case where the evacuee property which has vested in the Custodian consists of a share or shares in a company, exercise, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913) or in the articles of association of the company, the same rights in the matter of making a requisition for the convening of a meeting or of presenting a petition to the Court under the provisions of the Indian Companies Act, 1913, or the articles of association of the company or in any other matter as the evacuee shareholder himself could have done had he been present, although the name of the Custodian does not appear in the register of members of the company;

(*m*) incur any expenditure, including the payment of taxes, duties, cesses and rates to Government or to any local authority or

of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person ;

(*n*) pay to the evacuee, or to any member of his family or to any other person as in the opinion of the Custodian is entitled thereto, any sums of money out of the funds in his possession ;

(*o*) transfer in any manner whatsoever any evacuee property, notwithstanding anything to the contrary contained in any law or agreement relating thereto :

Provided that the Custodian shall not sell any immovable property or any business or other undertaking of the evacuee, except with the previous approval of the Custodian-General ;

(*p*) invest any money held by him in any of the securities approved by the Central Government or in the prescribed manner ;

(*q*) delegate, by general or special order, all or any of his functions under this Act to such officers or persons as he thinks fit :

Provided that the Custodian shall not delegate any of his functions under clause (*g*) or clause (*h*) to any officer or person below the rank of a Deputy Custodian.

11. Special provisions with respect to certain trust properties.— (*1*) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, the property shall remain vested in the Custodian only until such time as fresh trustees are appointed in the manner provided by law, and pending the appointment of fresh trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust.

(*2*) In respect of any *Wakf-alal-aulad*,—

(*a*) where the mutawalli is an evacuee, the property forming the subject-matter of the *wakf* shall vest in the Custodian subject to the rights of the beneficiaries under the *wakf*, if any, who are not evacuees ;

(*b*) where not all the beneficiaries are evacuees, the rights and interests of such of the beneficiaries as are evacuees shall alone vest in the Custodian.

12. Power to vary or cancel leases or allotments of evacuee property.— (*1*) Notwithstanding anything contained in any other law for the time being in force, the Custodian may cancel any allotment or terminate any lease or amend the terms of any lease or agreement

under which any evacuee property is held or occupied by any person, whether such allotment, lease or agreement was granted or entered into before or after the commencement of this Act.

(*2*) Where by reason of any action taken under sub-section (*1*), any person has ceased to be entitled to possession of any evacuee property, he shall on demand by the Custodian surrender possession of such property to the Custodian or to any person duly authorised by him in this behalf.

(*3*) If any person fails to surrender possession of any property on demand under sub-section (*2*), the Custodian may, notwithstanding anything to the contrary contained in any other law for the time being in force, eject such person and take possession of such property in the manner provided in section 9.

13. Payments to Custodian to be valid discharge.—(*1*) Any amount due to any evacuee in respect of any property which has vested in the Custodian or in respect of any transaction entered into by the evacuee, shall be paid to the Custodian by the person liable to pay the same.

(*2*) Any payment made otherwise than in accordance with sub-section (*1*) shall not discharge the person paying it from his obligation to pay the amount due, and shall not affect the right of the Custodian to enforce such obligation against any such person.

14. Recouping of expenditure by Custodian.—Any expenditure incurred by the Custodian in the exercise of any power conferred by or under this Act shall, in relation to any evacuee property in respect of which it has been incurred, be a charge on such property and shall, subject to the provisions of section 48, have priority over all other charges on the property, and such expenditure may be met or recouped by the Custodian out of the income accruing from such property or the sale proceeds thereof.

15. Maintenance of accounts by Custodian.—(*1*) The Custodian shall maintain a separate account of the property of each evacuee possession whereof has been taken by him, and shall cause to be made therein entries of all receipts and expenditure in respect thereof.

(*2*) The accounts shall be maintained in such form and in such manner as may be prescribed.

(*3*) The Provincial Government shall cause the accounts maintained under this section to be inspected and audited at such intervals and by such persons as may be prescribed.

16. Restoration of property.—(*1*) The Custodian may, on application made to him in this behalf in writing by an evacuee or any person claiming to be the heir of an evacuee, restore, subject to such terms and conditions as he may think fit to impose, the evacuee property to which the evacuee or other person would have been entitled if this Act were not in force:

Provided that the applicant produces in support of his application a certificate from the Central Government, or from any person authorised by it in this behalf, to the effect that the evacuee property may be so restored if the applicant is otherwise entitled thereto.

(*2*) On receipt of an application under sub-section (*1*), the Custodian shall cause public notice thereof to be given in the prescribed manner and, after holding a summary inquiry into the claim in such manner as may be prescribed, may—

(*a*) make a formal order declaring that the property shall be restored to the applicant; or

(*b*) reject the application; or

(*c*) refer the applicant to a civil Court for the determination of his claim and title to the property:

Provided that no order for restoration shall be made under this section, unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof.

(*3*) Upon the restoration of the property to the evacuee or to the heir, as the case may be, the Custodian shall stand absolved of all responsibilities in respect of the property so restored, but such restoration shall not prejudice the rights, if any, in respect of the property which any other person may be entitled to enforce against the person to whom the property has been so restored:

Provided that every lease granted in respect of the property by or on behalf of the Custodian shall have effect against the person to whom restoration is made until such lease is determined by lapse of time or by operation of law.

(*4*) The Custodian shall, on demand, furnish to the evacuee or to the heir, as the case may be, a statement containing an abstract of the account of the income received and expenditure incurred in respect of the property.

CHAPTER III.

CERTAIN CONSEQUENCES OF PROPERTY VESTING IN CUSTODIAN.

17. Exemption from attachment, sale, etc.—(*1*) Save as otherwise expressly provided in this Act, no property which has vested in the Custodian shall be liable to attachment, distress or sale in execution of an order of a Court or of any other authority, and no injunction in respect of any such property shall be granted by any Court or other authority.

(*2*) Save as otherwise expressly provided in this Act, any attachment or injunction subsisting on the commencement of this Act in respect of any evacuee property which has vested in the Custodian shall cease to have effect on such commencement, and any transfer of evacuee property under orders of a Court or any other authority made after the 14th day of August, 1947, shall be set aside, if an application is made to such Court or authority by or at the instance of the Custodian within three months from the commencement of this Act.

18. Occupancy or tenancy right not to be extinguished.—Nothing contained in any other law for the time being in force shall be deemed to extinguish the right of occupancy in any land of an evacuee which has vested in the Custodian and, notwithstanding anything contained in any such law, neither the evacuee nor the Custodian, whether as an occupancy tenant or as a tenant for a fixed term of any land, shall be liable to be ejected or deemed to have become so liable on any ground whatsoever for any default of the Custodian.

CHAPTER IV.

PROPERTY OF INTENDING EVACUEES.

19. Declaration of person as intending evacuee.—(*1*) Where the Custodian has reason to believe that a person is an intending evacuee, he may, by notice served in the prescribed manner, call upon such person to show cause why he should not be declared an intending evacuee, and shall, after holding such inquiry into the matter as the circumstances thereof permit, and after taking such evidence as may be produced by or on behalf of the person showing cause, pass an order (stating the reasons therefor) either declaring such person to be an intending evacuee or closing the case.

(*2*) Any declaration made under sub-section (*1*) shall be published in the official Gazette.

(*3*) The Custodian may, pending determination of the question whether any person is an intending evacuee or otherwise, attach in the prescribed manner any property in the Province in which such person has a right or interest, and during the pendency of such attachment, the property shall be incapable of being transferred or charged in any way, except with the leave of the Custodian, and no person shall be capable of taking any benefit from such transfer or charge except with such leave.

20. Consequences of declaration that a person is an intending evacuee.—No person, in respect of whom a declaration has been made under section 19 that he is an intending evacuee, shall transfer in any manner whatsoever any immovable property, in which he has any right or interest, situated in any part of the territories to which this Act extends, except with the previous approval of the Custodian, and any transfer made in contravention of the provisions of this section shall be void and of no effect.

21. Powers of Custodian generally in respect of property of intending evacuees.—For the purposes of preserving any property in which any person in respect of whom a declaration has been made under section 19 that he is an intending evacuee has any right or interest, the Custodian may,—

(*a*) by order in writing, require any such person to furnish such returns, accounts or other information in relation to any such property and to produce such documents in his possession as the Custodian may require;

(*b*) inspect the books of account or other documents maintained by or in the possession of such person;

(*c*) pass such orders or direct such action to be taken in relation to any such property as may be considered by him to be necessary;

(*d*) by order in writing, prohibit the transfer to Pakistan of any sum of money belonging to any such person or permit such transfer subject to such conditions and restrictions as the Custodian may think fit to impose.

22. Effect of intending evacuee contravening any provision of this Chapter.—If any person, in respect of whom a declaration has been made under section 19 that he is an intending evacuee, makes any transfer of any property in contravention of section 20 or fails to comply with

any order made under clause (*c*) or clause (*d*) of section 21, the Custodian may, by notification in the official Gazette, declare any property situated in the Province in which any such person has any right or interest to be evacuee property, and on the issue of such notification any property specified in the notification shall be deemed to be evacuee property which has vested in the Custodian within the meaning of this Act.

23. Intending evacuee acquiring evacuee or abandoned property in Pakistan for inadequate consideration to make good the deficiency.—(*1*) Where any person in respect of whom a declaration has been mada under section 19 that he is an intending evacuee has either personally or through any member of his family acquired, whether before or after the commencement of this Act, any right to, interest in, or benefit from any property which is treated as evacuee or abandoned property under any law for the time being in force in Pakistan for a consideration which, in the opinion of the Custodian is neither reasonable nor adequate, the Custodian inay, after notice to such person and after affording him a reasonable opportunity of being heard and after holding such inquiry as the circumstances of the case permit, determine, by order in writing, the amount, if any, by which the consideration, in his opinion, falls short of the real value of the property so acquired, and require such person to pay the amount to the Custodian within such time as may be specified in the order.

(*2*) If the amount is not paid within the time specified, or within such further time as the Custodian may allow, the Custodian may take possession of so much of the property of such intending evacuee as would be sufficient to cover the amount in the case of movable property, or as would afford a reasonable security for the recovery of the amount in the case of immovable property.

(*3*) The Custodian may, for the purpose of realising any amount payable by such intending evacuee under the provisions of this section, transfer in any manner whatsoever any immovable property which has been taken possession of by him under sub-section (*2*).

CHAPTER V.

Appeals, Review and Revision.

24. Appeals from orders under sections 7, 16, 19 and 38.—(*1*) Any person aggrieved by an order made under section 7, section 16, section 19 or section 38 may prefer an appeal in such manner and within such time as may be prescribed,—

(*a*) to the Custodian, where the original order has been passed by a Deputy or Assistant Custodian;

(*b*) to the Custodian-General, where the original order has been passed by the Custodian, and Additional Custodian or an Authorised Deputy Custodian :

Provided that where the appeal is preferred on the ground that the person aggrieved is not an evacuee within the meaning of sub-clause (*iii*) of clause (*d*) of section 2, or that the property is not evacuee property within the meaning of sub-clause (*2*) of clause (*f*) of section 2, the appeal shall be preferred in the manner prescribed in section 25.

(*2*) The Custodian to whom an appeal is preferred under clause (*a*) of sub-section (*1*) may dispose of it himself or may make it over for disposal to an Additional Custodian or to a Deputy Custodian authorised by the Custodian in writing in this behalf (in this Chapter referred to as the Authorised Deputy Custodian) :

Provided that no appeal from an order of a Deputy Custodian shall be made over for disposal to the Authorised Deputy Custodian.

25. Appeals from other orders.—(*1*) Any person aggrieved by an order,—

(*a*) under section 7 notifying his property as evacuee property on the ground that he is an evacuee within the meaning of sub-clause (*iii*) of clause (*d*) of section 2, or that the property is evacuee property within the meaning of sub-clause (2) of clause (*f*) of section 2, or

(*b*) under section 22 declaring any property of an intending evacuee to be evacuee property,

may prefer an appeal, in such manner and within such time as may be prescribed, to the District Judge nominated in this behalf by the Provincial Government.

(*2*) For the purpose of hearing any appeal under sub-section (*1*) the Provincial Government shall nominate one or more District Judges and define the local limits of their jurisdiction.

26. Powers of review or revision of Custodian, etc.—(*1*) The Custodian, Additional Custodian or Authorised Deputy Custodian may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding under this Act which is pending before, or has been disposed of by, an officer subordinate to him for the purpose of satisfying himself as to the legality

or propriety of any orders passed in the said proceeding, and may pass such order in relation thereto as he thinks fit:

Provided that the Custodian, Additional Custodian or Authorised Deputy Custodian shall not pass an order under this sub-section revising or modifying any order prejudicial to any person without giving such person a reasonable opportunity of being heard:

Provided further that if one of the officers aforesaid takes action under this sub-section, it shall not be competent for any other officer to do so.

(2) The Custodian, Additional Custodian or Authorised Deputy Custodian (but not a Deputy or an Assistant Custodian) may, after giving notice to the parties concerned, review his own order.

27. Powers of revision of Custodian-General.—(1) The Custodian-General may at any time, either on his own motion or on application made to him in this behalf, call for the record of any proceeding in which any District Judge or Custodian has passed an order in appeal under the provisions of this Chapter for the purpose of satisfying himself as to the legality or propriety of any such order and may pass such order in relation thereto as he thinks fit:

Provided that the Custodian-General shall not pass an order under this sub-section prejudicial to any person without giving him a reasonable opportunity of being heard.

(2) Notwithstanding anything contained in sub-section (1), where in respect of any proceeding called for under sub-section (1), the Custodian-General is of opinion that the District Judge is in error in holding any person not to be an evacuee or any property not to be evacuee property, he shall not pass any order in relation thereto but shall refer the matter, with his own opinion thereon, to the High Court to which the District Judge is otherwise subordinate.

(3) Any reference made under sub-section (2) shall be heard by a Bench of the High Court consisting of not less than two Judges and the Custodian-General shall dispose of the proceeding in accordance with the decision of the High Court.

28. Finality of orders under this Chapter.—Save as otherwise expressly provided in this Chapter, every order made by the Custodian-General, District Judge, Custodian, Additional Custodian, Authorised Deputy Custodian, Deputy Custodian or Assistant Custodian shall be final and shall not be called in question in any Court by way of appeal or revision or in any original suit, application or execution proceeding.

CHAPTER VI.

PENALTIES AND PROCEDURE.

29. Penalty for failure to surrender possession of evacuee property.—Any person who fails to comply with a notice or demand by or on behalf of the Custodian under the provisions of this Act to surrender possession of any evacuee property shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

30. Penalty for concealing evacuee property.—Any person who wilfully conceals any property which he knows or has reason to believe to be evacuee property shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

31. Penalty for causing damage to evacuee property.—Any person who wilfully destroys or causes damage to any evacuee property or unlawfully converts it to his own use shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

32. Penalty for false declaration in certain cases.—Any person who—

(*i*) for the purpose of obtaining an allotment or lease of any evacuee property, makes a declaration or statement which is false or which he either knows or has reason to believe to be false, or does not believe to be true, or

(*ii*) furnishes any return, account of information which is material to any of the purposes of this Act and which is false or which he either knows or has reason to believe to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

33. Penalty for offences not expressly provided for.—Whoever contravenes any provision of this Act or of any rule or order made thereunder, or obstructs the lawful exercise of any power conferred by or under this Act shall, if no express provision is made by this Act for the punishment of such contravention or obstruction, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

34. Penalty for abetment.—Whoever abets any of the offences punishable under this Act shall be punishable with the punishment provided for the offence.

35. Offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), all offences under this Act shall be cognizable.

36. Procedure for prosecution.—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Provincial Government or of any officer authorised in this behalf, by general or special order, by the Provincial Government.

37. Offences may be tried summarily.—Any Magistrate empowered to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), may, if an application is made in this behalf by the complainant and the Magistrate thinks fit, try any offence under this Act in accordance with the provisions contained in sections 262 to 265 of that Code, but nothing contained in sub-section (2) of section 262 of that Code shall apply to any such trial.

CHAPTER VII.

MISCELLANEOUS.

38. Restriction on transfer by evacuees.—(*1*) No transfer of any right or interest in any property made in any manner whatsoever after the 14th day of August, 1947, by or on behalf of an evacuee or by or on behalf of a person who has become an evacuee after the date of the transfer, shall be effective so as to confer any rights or remedies on the parties to such transfer or on any person claiming under them unless it is confirmed by the Custodian.

(*2*) An application for confirmation of such transfer may be made by the transferor or the transferee or any person claiming under, or lawfully authorised by, either of them to the Custodian within two months from the date of transfer or within two months from the commencement of this Act, whichever is later.

(*3*) The provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to an application under sub-section (2).

(*4*) The Custodian shall hold an inquiry into the application in the prescribed manner and may reject the application, if he is of opinion that—

(*a*) the transaction has not been entered into in good faith or for valuable consideration, or

(*b*) the transaction is prohibited under any law for the time being in force, or

(*c*) the transaction ought not to be confirmed for any other reason.

(*5*) If the application is not rejected under sub-section (4), the Custodian may confirm the transfer either unconditionally or subject to such terms and conditions as he thinks fit to impose.

39. Prohibition of registration of documents in certain cases.—(*1*) Where any document required to be registered under the Indian Registration Act, 1908 (XVI of 1908), purports to transfer any right or interest in any property in contravention of the provisions contained in section 20 or section 38, no registering officer shall register any such document and no revenue officer shall sanction any mutation of names in respect thereof, unless the party presenting the document for registration produces a certificate from the Custodian declaring that the property is not property belonging to an intending evacuee or that it is not evacuee property or that the transaction has been confirmed or that the Custodian has given his previous approval to the transfer.

(*2*) Save as otherwise expressly provided herein, nothing contained in sub section (*1*) shall be deemed to affect the provisions contained in the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), or in any other law for the time being in force relating to the registration of documents.

40. Custodian's right to take possession not affected by death of evacuee, etc.—Where in pursuance of the provisions of this Ordinance, the Custodian has taken possession of any evacuee property, such possession shall not be deemed to be wrongful, nor shall anything done in consequence thereof be deemed to be invalid or affected by reason only that at the material time the evacuee who had a right or interest in the property had died or had ceased to be an evacuee.

41. Certain officers to be public servants.—The Custodian-General, the Custodian and every other person duly appointed to discharge any duties imposed on them by this Act or the rules or orders made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

42. Powers of the Custodian while holding inquiry.—For the purposes of holding any inquiry under this Act, the Custodian shall have the same powers as are vested in a civil Court under the Code of Civil

Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely :—

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the discovery and production of documents ;

(*c*) any prescribed matter ;

and the inquiry by the Custodian shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the Custodian shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

43. Jurisdiction of civil Courts barred in certain matters.—Save as otherwise expressly provided in this Act, no civil Court shall have jurisdiction—

(*a*) to entertain or adjudicate upon any question whether any property is or is not evacuee property or whether an evacuee has or has not any right or interest in any evacuee property ; or

(*b*) to entertain or adjudicate upon any question whether any person is or is not an intending evacuee ; or

(*c*) to question the legality of any action taken by the Custodian-General or the Custodian under this Act ; or

(*d*) in respect of any matter which the Custodian-General or the Custodian is empowered by or under this Act to determine.

44. Protection of action taken in good faith.—(*1*) No suit, prosecution or other legal proceeding shall lie against the Custodian-General or the Custodian or any person acting under the direction of the Custodian in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

(*2*) No suit or other legal proceeding shall lie against the Central Government, the Provincial Government, the Custodian-General or the Custodian or any other person in respect of any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

45. Recovery of arrears.—Any sum due to the Provincial Government or to the Custodian under the provisions of this Act may be recovered as if it were an arrear of land revenue.

46. Record to be public documents.—All records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872 (I of 1872), and shall be presumed to be genuine until the contrary is proved.

47. Notice of suits to the Custodian.—(*1*) If in any suit it appears to the civil or revenue Court that a question relating to the property of an evacuee or an intending evacuee is involved, the Court shall not proceed to determine that question until after notice has been given to the Custodian.

(*2*) A Court may, at any stage of a suit or proceeding, either on its own motion or on application made in this behalf by the Custodian, make an order that the Custodian shall be added as a party to the suit or proceeding, if the Court is satisfied that such addition is necessary or proper for the satisfactory determination of the suit or proceeding.

48. Fees payable to the Custodian.—(*1*) The Provincial Government may fix the fees payable to the Custodian for the management or disposal of any property vested in him.

(*2*) Such fees shall be payable out of the income or sale proceeds of such property and shall be a first charge on the property.

49. Power to exempt.—The Central Government may, by notification in the official Gazette, exempt any person or class of persons or any property or class of property from the operation of all or any of the provisions of this Act.

50. Power to give directions.—The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any of the provisions contained in this Act or of any rules or orders made thereunder.

51. Power of Central Government to take action with regard to evacuee property.—The Central Government may, for the purpose of regulating the administration of any property which has vested in the Custodian under the provisions of this Act, pass such order or direct such action to be taken in relation thereto as, in its opinion, the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act.

52. Delegation of powers.—(*1*) The Central Government may direct that any power exercisable by it under this Act shall be exercisable also by such officer or authority subordinate to the Central

Government or by the Provincial Government or by such officer or authority subordinate to the Provincial Government as may be specified in the direction.

(2) The Provincial Government may, by general or special order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised by an officer subordinate to the Provincial Government.

(3) Subject to the provisions of this Act and the rules and orders made thereunder, the Custodian may delegate all or any of his powers under this Act to any Additional, Deputy or Assistant Custodian, subject to such conditions, if any, as may be specified by the Custodian.

53. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the terms and conditions of service of the Custodian-General and other officers appointed by him in the discharge of his duties ;

(b) the manner in which inquiries under this Act may be held ;

(c) the manner in which evacuee properties which have vested in the Custodian may be notified ;

(d) the manner in which possession of any evacuee property may be taken by the Custodian ;

(e) the manner in which any attachment may be made by the Custodian ;

(f) the manner in which trust properties which have vested in the Custodian may be administered or otherwise dealt with ;

(g) the circumstances in which, and the conditions subject to which, the Custodian may sell any immovable property vested in him, and the procedure governing the grant of leases and the period for which leases may be granted ;

(h) the circumstances in which leases and allotments may be cancelled or terminated or the terms of any lease or agreement varied ;

(*i*) the securities in which the Custodian may invest any moneys held by him;

(*j*) the manner in which any moneys due to the Custodian may be recovered;

(*k*) the form and manner in which books of accounts and other records shall be maintained by the Custodian;

(*l*) the form in which any notice under this Act may be issued, the manner of its service and publication and the form in which any demand may be made by the Custodian;

(*m*) the nature of cases and the circumstances in which and the conditions subject to which certificates for restoration of property under section 16 may be issued;

(*n*) the nature of cases and the circumstances in which the Custodian may refer an applicant under section 16 to a civil Court;

(*o*) the powers vested in a civil Court which may be exercised by the Custodian while holding any inquiry under this Act;

(*p*) the nature of cases and the circumstances in which the Custodian may confirm or refuse to confirm a transfer under section 38;

(*q*) the form and manner in which and the time within which appeals and applications for revision may be preferred under Chapter V and the fees payable in respect thereof;

(*r*) any other matter which has to be or may be prescribed under this Act.

(*3*) The Provincial Government may, by notification in the official Gazette, make rules providing for all or any of the following matters, namely:—

(*a*) the terms and conditions of service of the Custodian and other officers appointed under this Act and for the furnishing of security by them;

(*b*) the work to be performed by the Custodian and the Additional, Deputy and Assistant Custodians;

(*c*) the delegation of powers of the Custodian to the Additional Deputy or Assistant Custodian;

(*d*) the fees payable to the Custodian for the management and disposal of any property vested in him and the manner in which such fees shall be paid;

(*e*) the persons by whom and the times at which books of account maintained under this Act may be inspected and audited.

54. Temporary amendment of section 54 of the Indian Income-tax Act, 1922.—During the continuance of this Act, sub-section (*3*) of section 54 of the Indian Income-tax Act, 1922 (XI of 1922) shall have effect as if after clause (*o*) thereof, the following clause had been inserted, namely :—

"(*p*) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1949, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act."

55. Repeal and saving.—(*1*) The Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949) is hereby repealed.

(*2*) The repeal by this Act of the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949) shall not affect the previous operation thereof, and subject thereto, anything done or any action taken in the exercise of any power conferred by or under that Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

On account of the setting up of the two Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances, a large number of people migrated from one Dominion to the other. It was not possible for such people to make any satisfactory arrangement for the management of the property left behind by them. For the efficient management and administration of evacuee property, the Government of East Punjab promulgated an Ordinance, which was converted into an Act—the East Panjab Evacuees' (Administration of Property) Act, 1947 (E.P. Act XIV of 1947). This Act, with certain modifications, was extended to Delhi and Ajmer-Merwara.

On the 13th of June 1949 an Ordinance was promulgated for the Chief Commissioners' Provinces—the Administration of Evacuee Property (Chief Commissioners' Provinces) Ordinance, 1949 (XII of 1949). The Governors' Provinces and States, including Hyderabad, promulgated Ordinances on similar lines.

It was, however, felt that there should be uniform legislation relating to evacuee property throughout India, except Assam, West Bengal, Manipur, Tripura and Cooch-Behar, where the problems are slightly different. By an amendment of the Government of India Act, 1935, the custody, management and disposal of evacuee property was made a subject in the Concurrent Legislative List. On the 18th of October, 1949 an Ordinance called the Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949) was promulgated which extended to all the Provinces of India (except Assam and West Bengal) and to all the Acceding States (except Cooch-Behar, Manipur and Tripura). This Ordinance will expire in April, 1950.

It is desirable to re-enact Ordinance No. XXVII of 1949 as an Act of the Legislature.

MOHAN LAL SAKSENA.

NEW DELHI;

The 29th November, 1949.

A. BILL No. 65 OF 1949.

A Bill to provide for the constitution and regulation of an armed Central Reserve Police Force.

WHEREAS it is expedient to provide for the constitution and regulation of an armed Central Reserve Police Force;

It is hereby enacted as follows:—

PRELIMINARY.

1. Short title and extent.—(*1*) This Act may be called the Central Reserve Police Force Act, 1949.

(*2*) It extends to the whole of India, and applies to members of the Force, wherever they may be.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "active duty" means the duty to restore and preserve order in any local area in the event of any disturbance therein;

(*b*) "close arrest" means confinement within the Force or a detachment of the Force or a post quarter-guard building or tent under charge of a guard;

(*c*) "the Force" means the Central Reserve Police Force;

(*d*) "member of the Force" means a person who has been appointed to the Force by the Commandant, whether before or after the commencement of this Act, and in sections 1, 3, 6, 7, 16, 17, 18 and 19, includes also a person appointed to the Force by the Central Government, whether before or after such commencement;

(*e*) "open arrest" means confinement within the precincts of any barracks, lines or camp for the time being occupied by any part of the Force;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "subordinate officer" means a member of the Force of the rank of subedar-major, subedar, jamadar or sub-inspector;

(*h*) the expressions "assault", "criminal force", "fraudulently", "reason to believe" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code (Act XLV of 1860).

CONSTITUTION OF THE FORCE.

3. Constitution of the Force.—(*1*) There shall continue to be an armed force maintained by the Central Government and called the Central Reserve Police Force.

(*2*) The Force shall be constituted in such manner, and the members of the Force shall receive such pay, pension and other remuneration, as may be prescribed.

4. Appointment and powers of superior officers.—(*1*) The Central Government may appoint to the Force a Commandant and such other persons as it thinks fit to be assistant commandants and company officers.

(*2*) The Commandant and every other officer so appointed shall have, and may exercise, such powers and authority as may be provided by or under this Act.

5. Enrolement.—Before a person is appointed to be a member of the Force, the statement contained in the recruiting roll set out in the Schedule shall be read out and, if necessary, explained to him in the presence of an officer appointed under sub-section (*1*) of section 4,

and shall be signed by such person in acknowledgment of its having been so read out to him :

Provided that any person who has for a period of six months served with the Force, shall, on appointment to the Force thereafter, be deemed to be a member of the Force notwithstanding that the provisions of this section have not been complied with in his case.

6. Resignation and withdrawal from the Force.—No member of the Force shall be at liberty to—

(*a*) resign his appointment during the term of his engagement, except before the expiration of the first three months of his service ; or

(*b*) withdraw himself from all or any of the duties of his appointment, without the previous permission in writing of the Commandant or assistant commandant or any other officer authorised by the Commandant to grant such permission.

GENERAL DUTIES OF MEMBERS OF THE FORCE.

7. General duties of members of the Force.—(*1*) It shall be the duty of every member of the Force promptly to obey and to execute all orders and warrants lawfully issued to him by any competent authority, to detect and bring offenders to justice and to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient grounds exist.

(*2*) Every member of the Force shall be liable to serve without and beyond, as well as within, the territory of India.

SUPERINTENDENCE, CONTROL AND ADMINISTRATION OF THE FORCE.

8. Superintendence, control and administration of the Force.—(*1*) The superintendence of, and control over, the Force shall vest in the Central Government ; and the Force shall be administered by the Central Government in accordance with the provisions of this Act and of any rules made thereunder, through such officers as the Central Government may from time to time iappoint in this behalf.

(*2*) The Headquarters of the Force shall be at Neemuch or at such other place as may from time to time be specified by the Central Government.

(*3*) While on active duty outside its headquarters, the Force shall be subject to the general control and direction of such authority or

officer as may be prescribed or as may be specially appointed by the Central Government in this behalf.

OFFENCES AND PUNISHMENTS.

9. More heinous offences.—Every member of the Force who—

(*a*) begins, excites, causes or conspires to cause or joins in any mutiny, or, being present at any mutiny, does not use his utmost endeavour to suppress it, or knowing, or having reason to believe in, the existence of any mutiny, or of any intention or conspiracy to mutiny or of any conspiracy against the State does not, without delay, give information thereof to his superior officer; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or

(*c*) shamefully abandons or delivers up any post or guard which is committed to his charge, or which it is his duty to defend; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State or omits to discover immediately to his superior officer any such correspondence coming to his knowledge; or

who, while on active duty,—

(*e*) disobeys the lawful command of his superior officer; or

(*f*) deserts the Force; or

(*g*) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave; or

(*h*) leaves his commanding officer, or his post or party, to go in search of plunder; or

(*i*) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or breaks into any house or other place for plunder, or plunders, destroys or damages property of any kind; or

(*k*) intentionally causes or spreads a false alarm in action or in camp, garrison or quarters; or

(*l*) displays cowardice in the execution of his duty,

shall be punishable with transportation for life for a term of not less than seven years or with imprisonment for a term which may extend to fourteen years or with fine which may extend to three months' pay or with fine to that extent in addition to such sentence of transportation or imprisonment.

10. Less heinous offences.—Every member of the Force who—

(*a*) is in a state of intoxication when on, or after having been warned for any duty or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge, or without proper authority releases any person or prisoner placed under his charge, or negligently suffers any such prisoner or person to escape; or

(*d*) being under arrest or in confinement, leaves his arrest or confinement, before he is set at liberty by lawful authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any member of the Force subordinate to him in rank or position; or

(*h*) designedly or through neglect injures or loses or fraudulently disposes of his arms, cloths, tools, equipments, ammunition or accoutrements, or any such articles entrusted to him or belonging to any other person; or

(*i*) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or

(*j*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

(*k*) does not, when called upon by his superior officer so to do or upon ceasing to be a member of the Force forthwith deliver up, or duly account for, all or any arms, ammunition, stores, accoutrements or other property issued or supplied to him or in his custody or possession as such member; or

(*l*) knowingly furnishes a false return or report of the number or state of any men under his command or charge or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to the Government or to any member of, or any person attached to, the Force, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ; or

(*m*) absents himself without leave, or without sufficient cause overstays leave granted to him ; or

(*n*) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline ; or

(*o*) contravenes any provision of this Act for which no punishment is expressly provided ; or

who, while not on active duty,—

(*p*) commits any of the offences specified in clauses (*e*) to (*l*) (both inclusive) of section 9,

shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

11. Minor punishments.—(*1*) The Commandant or any other authority or officer as may be prescribed, may, subject to any rules made under this Act, award in lieu of, or in addition to, suspension or dismissal any one or more of the following punishments to any member of the Force whom he considers to be guilty of disobedience, neglect of duty, or remissness in the discharge of any duty or of other misconduct in his capacity as a member of the Force, that is to say,—

(*a*) reduction in rank ;

(*b*) fine of any amount not exceeding one month's pay and allowances ;

(*c*) confinement to quarters, lines or camp for a term not exceeding one month ;

(*d*) confinement in the quarter-guard for not more than twenty-eight days, with or without punishment drill or extra guard fatigue or other duty ; and

(*e*) removal from any office of distinction or special emolument in the Force,

(2) Any punishment specified in clause (*c*) or clause (*d*) of sub-section (*1*) may be awarded by any gazetted officer when in command of any detachment of the Force away from headquarters, provided he is specially authorised in this behalf by the Commandant.

(*3*) The assistant commandant, a company officer or a subordinate officer, not being below the rank of subedar or inspector, commanding a separate detachment or an outpost, or in temporary command at the headquarters of the Force may, without a formal trial, award to any member of the Force who is for the time being subject to his authority any one or more of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to require prosecution before a Criminal Court, that is to say,—

(*a*) confinement for not more than seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(*b*) punishment drill, or extra guard, fatigue or other duty, for not more than thirty days, with or without confinement to quarters, lines or camp;

(*c*) censure or severe censure: provided that this punishment may be awarded to a subordinate officer only by the Commandant.

(*4*) A jemadar or sub-inspector who is temporarily in command of a detachment or an outpost may in like manner and for the commission of any like offence, award to any member of the Force for the time being subject to his authority any of the punishments specified in clause (*b*) of sub-section (*3*) for not more than fifteen days.

12. Place of imprisonment and liability to dismissal on imprisonment.—(*1*) Every person sentenced under this Act to imprisonment may be dismissed from the Force, and shall further be liable to forfeiture of pay, allowance and any other moneys due to him, as well as of any medals and decorations received by him.

(*2*) Every such person shall, if he is so dismissed, be imprisoned in the prescribed prison, but if he is not also dismissed from the Force, he may, if the Court or the Commandant so directs, be confined in the quarter-guard or such other place as the Court or the Commandant may consider suitable.

13. Deductions from pay and allowances.—The following penal deductions may be made from the pay and allowances of a member of the Force by his company officer, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave and for every day of imprisonment

awarded by a Criminal Court or of confinement awarded under section 11;

(*b*) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted;

(*c*) all pay and allowance for every day on which he is in hospital on account of sickness certified by the medical officer attending on him at the hospital to have been caused by an offence committed by him under this Act;

(*d*) all pay and allowances ordered to be forfeited under section 11; and

(*e*) such sum as may be ordered by the Commandant or assistant commandant in order to make good any expenses caused by the member of the Force, or any loss of, or damage or destruction done by him to, any arms, ammunition, equipment, clothing, instruments or decorations belonging to the Force or to any buildings or property.

14. Collective fines.—Whenever any weapon, part of a weapon or ammunition, forming part of the equipment of a company or other similar unit of the Force is lost or stolen, the Commandant may, after making such inquiry as he thinks fit and subject to such rules as may be prescribed, impose a collective fine upon the subordinate officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

ARREST.

15. Arrest.—(*1*) Any member of the Force who commits any offence specified in section 9 or section 10 may be placed on open or close arrest by any officer of the Force.

(*2*) Where any subordinate officer orders an arrest under sub-section (*1*), he shall forthwith or at the earliest opportunity report the arrest to his company or detachment commander who shall after investigating the case order the release or the continued arrest of the member of the Force arrested.

MISCELLANEOUS.

16. Powers and duties conferrable and imposable on members of the Force.—(*1*) The Central Government may, by general or special order,

confer or impose upon any member of the Force any of the powers or duties conferred or imposed on a police officer of any class or grade by any law for the time being in force.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Central Government may invest the Commandant or an assistant commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a member of the Force and punishable under this Act, or any offence committed by a member of the Force against the person or property of another member:

Provided that—

(*i*) when the offender is on leave or absent from duty, or

(*ii*) when the offence is not connected with the offender's duties as a member of the Force, or

(*iii*) when it is a petty offence, even if connected with the offender's duties as a member of the Force,

the offence may, if the prescribed authority within the limits of whose jurisdiction the offence has been committed, so directs, be inquired into or tried by an ordinary Criminal Court having jurisdiction in the matter.

17. Protection for acts of members of the Force.—(*1*) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(*2*) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(*3*) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules thereunder, shall be commenced within three months, after the act complained of was committed and not otherwise, and notice in writing of such

proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

18. Power to make rules.—(*1*) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) regulating the classes and grades of, and the pay, pension and other remuneration of, members of the Force, and their conditions of service in the Force;

(*b*) regulating the powers and duties of officers authorised to exercise any functions by or under this Act.

(*c*) fixing the period of service for members of the Force;

(*d*) regulating the award of minor punishments under section 11, and providing for appeals from, or the revision of, orders under that section, or the remission of fines imposed under that section, and the remission of deductions made under section 13;

(*e*) regulating the several or collective liability of members of the Force in the case of the loss or theft of weapons and ammunition;

(*f*) for the disposal of criminal cases arising under this Act and for specifying the prison in which a person convicted in any such case may be confined.

19. Validation of acts done before commencement of Act.—Any order made, thing done, or action taken by or in relation to a member of the Force, on or after the 15th day of August, 1947, but before the commencement of this Act, shall for all purposes be deemed to have been made, done or taken under this Act as if this Act were in force on the day on which such order was made, thing was done or action was taken.

THE SCHEDULE.

RECRUITING ROLL.

(*See* section 5.)

After you have served in the Force for such period as the Central Government may prescribe, you may, at any time when not on active duty, apply for discharge, through the officer to whom you may be subordinate, to the Commandant, and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Force to exceed one-tenth of the sanctioned strength in which case you shall be bound to remain until this objection is waived or removed. But when on active duty, you shall have no claim to a discharge, and you shall be bound to remain to do your duty until the necessity for retaining you in the Force ceases when you may make your application in the abovementioned manner:

Provided that, if you wish to withdraw from the Force, you may submit your resignation at any time before the expiration of the first three months of your service, but not afterwards until the completion of the period prescribed as aforesaid; the Commandant may either accept your resignation forthwith or at the end of three months from the date of its receipt:

Provided, also, that the Commandant may, if he thinks fit, allow you to resign at any time on your giving three months notice of your wish to do so.

Signature of the member of the Force in acknowledgment of the above having been read out to him.

Space for impression of the member's left thumb to be taken in the presence of the enrolling officer.

Signed in my presence after I had ascertained that the candidate understood the purport of what he signed.

Commandant
or other authorised enrolling officer,

Place

Date

STATEMENT OF OBJECTS AND REASONS.

The "Crown Representative's Police Force" which was raised by the late Crown Representative as a reserve force to aid Indian States in the maintenance of law and order in times of emergency, has been retained as the Central Reserve Police Force even after the lapse of paramountcy.

2. The Crown Representative's Police Force Law, 1939, which was made under the Foreign (Jurisdiction) Order, 1937, to provide for the constitution and regulation of the Force, automatically ceased to have effect from the 15th August, 1947, but no enactment has been made for the regulation and control of this Force by the Government of India after the 15th August, 1947. The objects of the proposed Bill are to replace the old Crown Representative's Police Force Law, 1939, and thus provide for the organisation, control and regulation of the Central Reserve Police Force by the Central Government. For the purposes of this Bill, this Force falls within the category of "any other armed forces raised or maintained by the Dominion" mentioned in paragraph 1 of List I of the Seventh Schedule to the Government of India Act, 1935, as adapted.

V. J. PATEL,

NEW DELHI,

The 22nd November, 1949.